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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 15, 2008

11:36 a.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, President

STEVEN M. BOGGESS, Secretary

1 P R O C E E D I N G S

2 THE PRESIDENT: The Senate will
3 come to order.

4 I would like to ask those assembled
5 to please join with me in reciting the Pledge
6 of Allegiance to our Flag.

7 (Whereupon, the assemblage recited
8 the Pledge of Allegiance to the Flag.)

9 THE PRESIDENT: Senator Bruno.

10 SENATOR BRUNO: Mr. President,
11 can we announce an immediate meeting of the
12 Labor Committee in Room 123.

13 THE PRESIDENT: There will be an
14 immediate meeting of the Labor Committee in
15 Room 123.

16 SENATOR BRUNO: And,
17 Mr. President, can I at the convening of this
18 session just again say thank you publicly to
19 you for your presence yesterday, and for your
20 caring and sharing your thoughts, and to my
21 colleagues here on both sides.

22 Senator Smith couldn't have been
23 more responsive in terms of our family and our
24 needs, as all of you were.

25 And I know, as I said yesterday,

1 everybody has a lot going on in their lives,
2 and there's a lot of trauma and a lot that
3 affects us. But everyone's presence there and
4 being there, I can't tell you how comforting
5 it was for me and for my children and for my
6 grandchildren.

7 So, Senator Smith, thank you. And
8 to my colleagues, thank you. You are really
9 ladies and gentlemen and class acts, and thank
10 you.

11 Thank you, Mr. President.

12 THE PRESIDENT: Thank you,
13 Senator Bruno.

14 In the absence of clergy, we will
15 observe a moment of silence in honor of
16 Senator Bruno, his sons, Kenneth and Joseph,
17 his daughters, Catherine and Susan, his seven
18 grandchildren, and for what they have endured
19 over the past week.

20 We recognize, as Cardinal Egan said
21 yesterday, that our prayers and our assistance
22 are not just important in the immediate
23 moments after the loss of a family member but
24 must continue in the days and weeks when they
25 will experience a solitude and despair and

1 difficulty.

2 And so on behalf of the members of
3 this chamber and all that work here, Senator
4 Bruno, I'd like to speak for them by telling
5 you that we are there for you.

6 And we will now observe a moment of
7 reflection.

8 (Whereupon, the assemblage
9 respected a moment of silence.)

10 THE PRESIDENT: The reading of
11 the Journal.

12 THE SECRETARY: In Senate,
13 Monday, January 14, the Senate met pursuant to
14 adjournment. The Journal of Sunday,
15 January 13, was read and approved. On motion,
16 Senate adjourned.

17 THE PRESIDENT: Without
18 objection, the Journal stands approved as
19 read.

20 We will now proceed to the order of
21 business.

22 Presentation of petitions.

23 Messages from the Assembly.

24 Messages from the Governor.

25 Reports of standing committees.

1 The Secretary will read.

2 THE SECRETARY: Senator Bonacic,
3 from the Committee on Housing, Construction
4 and Community Development, reports the
5 following bill: Senate Print 6446A, by
6 Senator Golden, an act to amend the Real
7 Property Tax Law.

8 And Senator Hannon, from the
9 Committee on Health, reports the following
10 bill: Senate Print 6552, by Senator Hannon,
11 an act to amend the Public Health Law.

12 Both bills are ordered direct to
13 third reading.

14 THE PRESIDENT: Without
15 objection, those bills will be reported direct
16 to third reading.

17 Reports of select committees.

18 Communications and reports from
19 state officers.

20 Motions and resolutions.

21 Senator Bruno.

22 SENATOR BRUNO: Mr. President,
23 can we at this time adopt the Resolution
24 Calendar, with the exception of 3859 and 3974.

25 THE PRESIDENT: All in favor of

1 adopting the Resolution Calendar, with
2 exceptions, signify by saying aye.

3 (Response of "Aye.")

4 THE PRESIDENT: Opposed, nay.

5 (No response.)

6 THE PRESIDENT: The Resolution
7 Calendar, with exceptions, is adopted.

8 The chair recognizes Senator
9 Farley.

10 SENATOR FARLEY: Thank you,
11 Mr. President.

12 I just want to speak briefly on
13 something that a number of us that have been
14 here for a long time and those that are in the
15 Senate Club remember: Senator Dr. Fred
16 Isabella, who passed away at 90 years of age.

17 Dr. Isabella was the Senator that
18 preceded me, and I had the challenging time of
19 running against him twice. He was a wonderful
20 man, became a very dear friend of mine over
21 the years.

22 And the resolution is one that
23 speaks to his incredible public service. And
24 I'd like to open it up to every member of this
25 chamber. And anybody that does not want to be

1 on it, please notify the desk. But I'd ask
2 that that be adopted also.

3 Thank you very much.

4 ACTING PRESIDENT GRIFFO: Senator
5 Bruno, may we open up Resolution 3946 at the
6 request of Senator Farley?

7 SENATOR BRUNO: Yes, Mr.
8 President.

9 ACTING PRESIDENT GRIFFO: Yes?
10 Thank you.

11 Any member not wishing to be on
12 Resolution 3946, please notify the desk.

13 Senator Bruno.

14 SENATOR BRUNO: Mr. President, I
15 believe there's a resolution at the desk by
16 Senator Morahan. I would ask that the title
17 be read and move for its immediate adoption.

18 ACTING PRESIDENT GRIFFO: The
19 Secretary will read.

20 THE SECRETARY: By Senator
21 Morahan, Legislative Resolution Number 3859,
22 memorializing Governor Eliot Spitzer to
23 proclaim March 2008 as Irish-American Heritage
24 Month in the State of New York.

25 ACTING PRESIDENT GRIFFO: On the

1 resolution, all those in favor signify by
2 saying aye.

3 (Response of "Aye.")

4 ACTING PRESIDENT GRIFFO:

5 Opposed?

6 (No response.)

7 ACTING PRESIDENT GRIFFO: The
8 resolution is carried.

9 Senator Bruno.

10 SENATOR BRUNO: Mr. President, I
11 believe there is a resolution by Senator
12 Fuschillo. I would ask that it be read in its
13 entirety and move for its immediate adoption.

14 ACTING PRESIDENT GRIFFO: The
15 Secretary will read.

16 THE SECRETARY: By Senator
17 Fuschillo, Legislative Resolution Number 3974,
18 memorializing Governor Eliot Spitzer to
19 proclaim 2008 as the Year of the Defibrillator
20 in the State of New York.

21 "WHEREAS, Death from sudden cardiac
22 arrest is a major health problem, one which
23 receives much less attention than heart attack
24 and cardiovascular disease. It is one of the
25 leading causes of death in the United States,

1 striking some 335,000 Americans each year; and

2 "WHEREAS, There are tools available
3 to increase survival rates from sudden cardiac
4 arrest, including cardiopulmonary
5 resuscitation, but it is often not enough to
6 save a life. A lifesaving pulse of
7 electricity, known as defibrillation, is
8 frequently needed to restore the heart's
9 normal rhythm; and

10 "WHEREAS, Studies show that sudden
11 cardiac arrest survival rates decrease
12 7 percent to 10 percent every minute the
13 victim is without defibrillation. The
14 difference between life and death is only a
15 matter of minutes. Having a defibrillator
16 readily accessible saves precious time in
17 helping victims survive a cardiac emergency;
18 and

19 "WHEREAS, Attendant to such
20 concern, and in full accord with its
21 long-standing traditions, it is the sense of
22 this Legislative Body to encourage
23 organizations, institutions, and citizens
24 across New York State to educate themselves
25 about sudden cardiac arrest and to work toward

1 the broad availability of automated external
2 defibrillators; and

3 "WHEREAS, Founded by Merrick
4 residents Jill and Craig Levine in memory of
5 their nine-year-old son, who died tragically
6 of sudden cardiac arrest in 2005, the Robbie
7 Levine Foundation will undertake a grassroots
8 campaign throughout 2008 to raise awareness
9 about the importance of having defibrillators
10 available when children are playing sports;
11 and

12 "WHEREAS, Since its inception, the
13 Robbie Levine Foundation has raised over
14 \$150,000, donated defibrillators to several
15 different youth sports leagues throughout
16 New York State, as well as a Boy Scout camp,
17 organized training sessions to teach people
18 how to use defibrillators, and developed an
19 educational DVD. The organization also holds
20 an annual 5K run and other events designed to
21 raise awareness about the importance of
22 defibrillators; and

23 "WHEREAS, In the 2007-2008 budget,
24 \$1.7 million was secured in the 2007-2008
25 budget for the New York State Police to

1 purchase automated external defibrillators --
2 AEDs -- for use in all on-duty State Police
3 vehicles and to train state troopers in their
4 use. By the beginning of 2008, all 6,000
5 State Police employees are expected to have
6 completed AED training; and

7 "WHEREAS, In addition, the New York
8 State Office of General Services, in
9 cooperation with its tenant agencies, is
10 implementing a new lifesaving 'AED Program,'
11 which will place automated external
12 defibrillators in key locations throughout its
13 facilities and train employee volunteers to be
14 AED first-responders; and

15 "WHEREAS, This Legislative Body
16 recognizes the critical importance of
17 increasing the survival rate from sudden
18 cardiac arrest and urges all citizens to learn
19 how to use automated external defibrillators
20 so that we may reduce the number of deaths
21 from sudden cardiac arrest in New York State;
22 now, therefore, be it

23 "RESOLVED, That this Legislative
24 Body pause in its deliberations to memorialize
25 Governor Eliot Spitzer to proclaim 2008 as the

1 Year of the Defibrillator in the State of
2 New York; and be it further

3 "RESOLVED, That copies of this
4 resolution, suitably engrossed, be transmitted
5 to The Honorable Eliot Spitzer, Governor of
6 the State of New York, and to the Robbie
7 Levine Foundation."

8 ACTING PRESIDENT GRIFFO: Senator
9 Fuschillo.

10 SENATOR FUSCHILLO: Thank you
11 very much, Mr. President.

12 It was a beautiful day in September
13 of 2005 where a dad, who is all too well known
14 now in my community where I live in Merrick,
15 was coaching his son's Little League team.
16 They were practicing behind the school called
17 Lakeside, Levy Lakeside, named after Senator
18 Norman Levy, who spent so many years in this
19 body.

20 It was the end of practice, and the
21 kids at the end of practice round the bases.
22 And the little boy, Robbie Levine, who has
23 become a household name in my community, was
24 rounding the bases. And the father now talks
25 about how his speed had excelled; he never saw

1 him run so fast in his life.

2 Rounded first base, rounded second
3 base, rounded third base. On his way home, he
4 just collapsed. And he died, the poor little
5 boy. Nine years old.

6 And for a moment in my community,
7 time stopped. You could hear a pin drop even
8 on the streets when the words went through
9 everybody's houses that a 9-year-old boy died.
10 Nobody really knew who this boy was. But as I
11 said, it's a household name.

12 And Senator Bruno said it best
13 yesterday, on the passing of his wife, Bobbie,
14 that when somebody passes away you reflect on
15 your own life and your own priorities. And
16 the Levines, Craig and Jill, have done that.
17 And they've created a foundation called
18 Forever Nine, to honor the memory of Robbie
19 Levine. It's the Forever Nine Robbie Levine
20 Foundation.

21 And since the passing of this young
22 boy, they have raised more than \$150,000 to
23 buy defibrillators and donate them to youth
24 sport organizations throughout the state, to
25 promote the awareness that AEDs save lives and

1 every minute during sudden cardiac arrest
2 counts.

3 So what we're trying to do with
4 this resolution is raise awareness throughout
5 New York State. We want parents to be trained
6 in the use of AEDs. We want parents, when
7 they step on the field or in a gym, to say:
8 "Where's the defibrillator?" And if it's not
9 there, "Why?"

10 And that's what this campaign is
11 all about. I thank you, Mr. President, for
12 the opportunity to speak on it.

13 ACTING PRESIDENT GRIFFO: Thank
14 you, Senator Fuschillo.

15 The question is on the resolution.
16 All in favor signify by saying aye.

17 (Response of "Aye.")

18 ACTING PRESIDENT GRIFFO:
19 Opposed, if any.

20 (No response.)

21 ACTING PRESIDENT GRIFFO: The
22 resolution is carried.

23 With the permission of the leader,
24 there is a request of the sponsors that the
25 resolutions be opened up to the members of the

1 chamber.

2 (Senator Bruno indicating in the
3 affirmative.)

4 ACTING PRESIDENT GRIFFO:

5 Permission is granted. Those who do not
6 choose to be signed on to the resolution,
7 please indicate by speaking to the desk.

8 Thank you.

9 Senator Bruno.

10 SENATOR BRUNO: Mr. President,
11 can we at this time take up the
12 noncontroversial reading of the calendar.

13 ACTING PRESIDENT GRIFFO: Thank
14 you, Senator.

15 The Secretary will read.

16 THE SECRETARY: Calendar Number
17 1, by Senator DeFrancisco, Senate Print 6398A,
18 an act to amend Chapter 606 of the Laws of
19 2007, amending the Court of Claims Act.

20 ACTING PRESIDENT GRIFFO: Read
21 the last section.

22 THE SECRETARY: Section 2. This
23 act shall take effect immediately.

24 ACTING PRESIDENT GRIFFO: Call
25 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 53.

3 ACTING PRESIDENT GRIFFO: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 2, by Senator Libous, Senate Print 6421A, an
7 act to amend the Vehicle and Traffic Law, in
8 relation to occupants of school buses.

9 ACTING PRESIDENT GRIFFO: Read
10 the last section.

11 THE SECRETARY: Section 2. This
12 act shall take effect on the same date as
13 Chapter 241 of the Laws of 2007.

14 ACTING PRESIDENT GRIFFO: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 53.

18 ACTING PRESIDENT GRIFFO: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 3, by Senator Nozzolio, Senate Print 6422, an
22 act to amend the Correction Law and the Mental
23 Hygiene Law, in relation to confinement
24 conditions.

25 ACTING PRESIDENT GRIFFO: Read

1 the last section.

2 THE SECRETARY: Section 8. This
3 act shall take effect immediately.

4 ACTING PRESIDENT GRIFFO: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 53.

8 ACTING PRESIDENT GRIFFO: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 4, by Senator Nozzolio, Senate Print 6423A, an
12 act to amend the Correction Law, in relation
13 to the treatment of inmates in county jails.

14 ACTING PRESIDENT GRIFFO: Read
15 the last section.

16 THE SECRETARY: Section 2. This
17 act shall take effect on the same date and in
18 the same manner as Section 4 of a chapter of
19 the Laws of 2008.

20 ACTING PRESIDENT GRIFFO: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 53.

24 ACTING PRESIDENT GRIFFO: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 5, by Senator Maziarz, Senate Print 6447, an
3 act to amend Chapter 487 of the Laws of 2007,
4 relating to authorizing the City of Niagara
5 Falls.

6 ACTING PRESIDENT GRIFFO: Read
7 the last section.

8 THE SECRETARY: Section 2. This
9 act shall take effect immediately.

10 ACTING PRESIDENT GRIFFO: Call
11 the roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes, 53.

14 ACTING PRESIDENT GRIFFO: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 6, by Senator Padavan, Senate Print 6477, an
18 act to amend the General Business Law, in
19 relation to distributing unsolicited
20 advertising.

21 ACTING PRESIDENT GRIFFO: Read
22 the last section.

23 THE SECRETARY: Section 3. This
24 act shall take effect immediately.

25 ACTING PRESIDENT GRIFFO: Call

1 the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 53.

4 ACTING PRESIDENT GRIFFO: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 7, by Senator Maziarz, Senate Print 6487B, an
8 act to amend the Labor Law.

9 ACTING PRESIDENT GRIFFO: Senator
10 Bruno.

11 SENATOR BRUNO: Is there a
12 message of necessity from the Governor?

13 ACTING PRESIDENT GRIFFO: Yes,
14 there is.

15 SENATOR BRUNO: I would move that
16 we accept the message.

17 ACTING PRESIDENT GRIFFO: All in
18 favor of accepting the message of necessity
19 signify by saying aye.

20 (Response of "Aye.")

21 ACTING PRESIDENT GRIFFO:
22 Opposed, nay.

23 (No response.)

24 ACTING PRESIDENT GRIFFO: The
25 message is accepted.

1 Read the last section.

2 THE SECRETARY: Section 3. This
3 act shall take effect immediately.

4 ACTING PRESIDENT GRIFFO: Call
5 the roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 53.

8 ACTING PRESIDENT GRIFFO: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 8, by Senator Marcellino, Senate Print 6489A,
12 an act to amend the Labor Law.

13 ACTING PRESIDENT GRIFFO: Read
14 the last section.

15 THE SECRETARY: Section 2. This
16 act shall take effect immediately.

17 ACTING PRESIDENT GRIFFO: Call
18 the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 54.

21 ACTING PRESIDENT GRIFFO: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 9, by Senator Nozzolio, Senate Print 6490, an
25 act to amend the Labor Law, in relation to

1 permitting a leave of absence.

2 ACTING PRESIDENT GRIFFO: Read
3 the last section.

4 THE SECRETARY: Section 2. This
5 act shall take effect on the same date and in
6 the same manner as Chapter 578 of the Laws of
7 2007.

8 ACTING PRESIDENT GRIFFO: Call
9 the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 54.

12 ACTING PRESIDENT GRIFFO: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 10, by Senator Maltese, Senate Print 6495, an
16 act to amend the Civil Service Law, in
17 relation to provisional employees.

18 ACTING PRESIDENT GRIFFO: There
19 is a home-rule message at the desk.

20 The Secretary will read the last
21 section.

22 THE SECRETARY: Section 5. This
23 act shall take effect immediately.

24 ACTING PRESIDENT GRIFFO: Call
25 the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 54.

3 ACTING PRESIDENT GRIFFO: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 11, by Senator Flanagan, Senate Print 6519A,
7 an act to amend the Labor Law and others, in
8 relation to guaranteeing payment.

9 ACTING PRESIDENT GRIFFO: Read
10 the last section.

11 THE SECRETARY: Section 9. This
12 act shall take effect on the same date and in
13 the same manner as a chapter of the Laws of
14 2007.

15 ACTING PRESIDENT GRIFFO: Call
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 54.

19 ACTING PRESIDENT GRIFFO: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 13, by Senator Leibell, Senate Print 6509, an
23 act to amend the Real Property Tax Law, in
24 relation to real property tax exemption.

25 ACTING PRESIDENT GRIFFO: Read

1 the last section.

2 THE SECRETARY: Section 3. This
3 act shall take effect in the same date and in
4 the same manner as Chapter 655 of the Laws of
5 2007.

6 ACTING PRESIDENT GRIFFO: Call
7 the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 54.

10 ACTING PRESIDENT GRIFFO: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 26, by Senator Golden, Senate Print 6446A, an
14 act to amend the Real Property Tax Law, in
15 relation to making changes.

16 ACTING PRESIDENT GRIFFO: Read
17 the last section.

18 THE SECRETARY: Section 9. This
19 act shall take effect immediately.

20 ACTING PRESIDENT GRIFFO: Call
21 the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 54.

24 ACTING PRESIDENT GRIFFO: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 27, by Senator Hannon, Senate Print 6552, an
3 act to amend the Public Health Law, in
4 relation to membership.

5 ACTING PRESIDENT GRIFFO: Read
6 the last section.

7 THE SECRETARY: Section 2. This
8 act shall take effect immediately.

9 ACTING PRESIDENT GRIFFO: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 54.

13 ACTING PRESIDENT GRIFFO: The
14 bill is passed.

15 Senator Bruno, that completes the
16 reading of the noncontroversial calendar.

17 SENATOR BRUNO: Mr. President, is
18 there any other business to come before the
19 Senate at this time at the desk?

20 ACTING PRESIDENT GRIFFO: There
21 is no further business at the desk, Senator
22 Bruno.

23 SENATOR BRUNO: Thank you,
24 Mr. President. Then at this time I would move
25 that we stand adjourned until Tuesday,

1 January 22nd, at 3:00 p.m., intervening days
2 to be legislative days.

3 ACTING PRESIDENT GRIFFO: On
4 motion, the Senate stands adjourned until
5 Tuesday, January 22nd, at 3:00 p.m.,
6 intervening days being legislative days.

7 SENATOR BRUNO: Thank you,
8 Mr. President. And thank you.

9 (Whereupon, at 11:55 a.m., the
10 Senate adjourned.)

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