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

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

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

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

THE PRESIDENT: Senator Bruno.

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

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

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

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

And I know, as I said yesterday,

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

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

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator Bruno.

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

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

difficulty.

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

And we will now observe a moment of reflection.

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

THE PRESIDENT: The reading of the Journal.

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

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

We will now proceed to the order of business.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

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

Both bills are ordered direct to third reading.

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

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Bruno.

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

THE PRESIDENT: All in favor of

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

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

The chair recognizes Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

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

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

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

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

Thank you very much.

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

SENATOR BRUNO: Yes, Mr. President.

ACTING PRESIDENT GRIFFO: Yes? Thank you.

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

Senator Bruno.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

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

ACTING PRESIDENT GRIFFO: On the

resolution, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is carried.

Senator Bruno.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

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

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

striking some 335,000 Americans each year; and

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

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

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

the broad availability of automated external defibrillators; and

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT GRIFFO: Senator Fuschillo.

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

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

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

him run so fast in his life.

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

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

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

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

every minute during sudden cardiac arrest counts.

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

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

ACTING PRESIDENT GRIFFO: Thank you, Senator Fuschillo.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, if any.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is carried.

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

chamber.

(Senator Bruno indicating in the affirmative.)

ACTING PRESIDENT GRIFFO: Permission is granted. Those who do not choose to be signed on to the resolution, please indicate by speaking to the desk. Thank you.

Senator Bruno.

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

ACTING PRESIDENT GRIFFO: Thank you, Senator.

The Secretary will read.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Senator Bruno.

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

ACTING PRESIDENT GRIFFO: Yes, there is.

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

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

permitting a leave of absence.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

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

The Secretary will read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

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

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

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

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

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

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

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