NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 3, 2008

1:01 p.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

I ask all present to rise and join in reciting the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT GRIFFO: In the absence of clergy, I ask everyone to bow their heads in a moment of silence.

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

ACTING PRESIDENT GRIFFO: The reading of the Journal.

THE SECRETARY: In Senate, Wednesday, April 2, the Senate met pursuant to adjournment. The Journal of Tuesday, April 1, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, if there are no substitutions at the desk, I'd like to go to the noncontroversial reading of the calendar.

ACTING PRESIDENT GRIFFO: There are no substitutions.

And the Secretary will read.

Senator Skelos.

SENATOR SKELOS: If we could continue with the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 30, by Senator Young, Senate Print 389 --

SENATOR SKELOS: Lay it aside temporarily, please.

ACTING PRESIDENT GRIFFO: Lay it aside temporarily.

THE SECRETARY: Calendar Number 54, by Senator Maltese, Senate Print 3256, an act to amend the Labor Law and the Penal Law, in relation to certain employment.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 151, by Senator Marcellino --

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT GRIFFO: Lay it aside temporarily.

THE SECRETARY: Calendar Number 184, by Senator Winner --

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT GRIFFO: Lay it aside temporarily.

THE SECRETARY: Calendar Number 431, by Senator Young, Senate Print 6912, an act to amend the Penal Law, in relation to prohibiting.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 534, by Senator Skelos --

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT GRIFFO: Lay it aside temporarily.

THE SECRETARY: Calendar Number 536, by Senator Flanagan, Senate Print 845, an

act to amend the Penal Law, in relation to definitions.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 547, by Senator Padavan --

SENATOR SKELOS: Lay it aside temporarily, please.

ACTING PRESIDENT GRIFFO: Lay it aside temporarily.

THE SECRETARY: Calendar Number 557, by Senator Morahan, Senate Print 4006, an act to amend the Mental Hygiene Law, in relation to disclosure.

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, 39.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 633, by Senator Volker, Senate Print 2373, an act to amend the Penal Law, in relation to assaults.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 647, by Senator Bonacic, Senate Print 5299, an

act to amend the Penal Law, in relation to aggravated harassment.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 650, by Senator Golden, Senate Print 5767, an act to amend the Penal Law, in relation to unlawful disclosure.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 659, by Senator Golden, Senate Print 7064, an act to amend Chapter 779 of the Laws of 1986 amending the Social Services 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, 40.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 666, by Senator DeFrancisco, Senate Print 6657, an act to amend the Navigation Law, in relation to increasing.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I just want to explain my vote. I'm sponsoring this legislation, and I of course vote yes.

I just want to explain how this legislation arose and my thoughts behind sponsoring legislation which would increase the penalties for leaving the scene of a boating accident, and the most serious penalty would be in the event that the accident ended in serious injury or death. That offense would be a D felony now.

This arose as a result of two horrific accidents or incidents -- not really accidents, they were reckless conduct on behalf of the individuals. One was on Skaneateles Lake, where a young man by the name of John Kelly and a young woman by the name of Heather Wilkins were struck by another boater, and the boater and his friends left the scene of the accident.

By the time people learned of the incident, found the boat, both of the individuals were dead. Which possibly could have been avoided had people gone and reported the accident when it should have been reported. That was on Skaneateles Lake.

Also, on Oneida Lake, also in Onondaga County, an older gentleman was minding his own business fishing, and a very violent collision occurred. The other boat was operated by another young person with other young people in the boat with him. He struck that vehicle in such a violent way that -- and left the scene, just left.

And later, when the man was finally found, he was found dead as well. There was a very good chance that that individual could have been saved in the event that someone had at least told about the accident.

So this is a serious business. And we've increased the penalties over the years for incidents like this dealing with motor vehicles. And this bill really catches up to the same situation, which is just as serious in boating accidents.

I vote aye.

ACTING PRESIDENT GRIFFO: Senator DeFrancisco to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 42. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: If you could take up Calendar Number 30 that was temporarily laid aside.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 30, by Senator Young, Senate Print 389, an act to amend the Criminal Procedure Law, in relation to permitting.

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.)

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

While certainly I believe that the goals of this legislation are certainly laudable, I can't in good conscience vote for it, because if tragedy should strike my family, my domestic partner, I would not be able to read an impact statement, and he would not be able to read one if something happened to me.

And, you know, it's 2008. And I think that it's time to really face reality of what our families look like in New York State.

And again, while I think the goals of this legislation are laudable, I really have to encourage my colleagues to vote in the negative on it. Because I think it's time that we went into the new millennium and actually treated all the members of this body with respect and, frankly, equally.

So I'm going to be voting in the negative, and I would encourage my colleagues also to strike a blow for equality and

fairness and cast your votes in the negative.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Duane to be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 30 are Senators Adams, Duane, Gonzalez, Huntley, L. Krueger, C. Kruger, Montgomery, Perkins, Sabini, Schneiderman and Smith.

Ayes, 39. Nays, 11.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will read, in regular order, the calendar.

THE SECRETARY: Calendar Number 151, by Senator Marcellino, Senate Print 616, an act to amend the Penal Law, in relation to including.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 151 are Senators Montgomery and Perkins.

Ayes, 48. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 184, by Senator Winner, Senate Print 1715, an act to amend the General Obligations Law, in relation to processing.

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.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 184 are Senators Adams, Diaz, Gonzalez, Hassell-Thompson, Huntley, L. Krueger,

Montgomery, Morahan, Onorato, Perkins, Sabini, Savino and Stewart-Cousins.

Ayes, 40. Nays, 13.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 534, by Senator Skelos, Senate Print 435A, an act to amend the Penal Law, in relation to sentencing.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 534 are Senators Adams, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Perkins and Schneiderman.

Ayes, 45. Nays, 8.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 547, by Senator Padavan, Senate Print 2178, an act to amend the Penal Law, in relation to piercing and branding.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 547 are Senators Adams, Duane, Huntley, Montgomery, Perkins and Schneiderman.

Ayes, 48. Nays, 6.

ACTING PRESIDENT GRIFFO: The bill is passed.

May I ask for some order in the house, please.

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

Senator Onorato, why do you rise?

SENATOR ONORATO: Mr. President, there will be a conference of the Democrats at 1:30 in Room 315.

ACTING PRESIDENT GRIFFO: There will be a Minority conference at 1:30 in the Minority Conference Room.

Senator Skelos.

SENATOR SKELOS: If we could just wait a minute for the members of the Majority.

I'm not telling you right away.

(Laughter.)

ACTING PRESIDENT GRIFFO: Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Yes, Mr. President. I just would like the record to show that had I been in the chamber when Calendar 536 passed, I would have voted no.

Thank you.

ACTING PRESIDENT GRIFFO: The record shall so reflect. Thank you, Senator Montgomery.

Senator Connor, why do you rise?

SENATOR CONNOR: Mr. President, I was absent from the chamber --

ACTING PRESIDENT GRIFFO: Excuse me, Senator.

May we have order in the house, please.

SENATOR CONNOR: I would like the record to reflect that had I been here, I would have voted no on Calendar Number 30.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: The record shall so reflect, Senator Connor.

Senator Hassell-Thompson, why do you rise?

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

Please let the record reflect that had I been in the chambers, I would have voted no on Calendar Number 151, S616.

ACTING PRESIDENT GRIFFO: Thank you, Senator Hassell-Thompson. The record shall so reflect.

SENATOR HASSELL-THOMPSON: Thank you.

ACTING PRESIDENT GRIFFO: Senator

Skelos.

SENATOR SKELOS: Mr. President, the Senate will stand at ease until 2:00 p.m.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease until 2:00 p.m.

The Minority conference is in Room 315 at 1:30.

(Whereupon, the Senate stood at ease at 1:25 p.m.)

(Whereupon, the Senate reconvened at 2:19 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be a meeting of the Finance Committee at 2:25 in the Majority Conference Room.

If we could stand at ease, please.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 2:20 p.m.)

(Whereupon, the Senate reconvened at 2:33 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees for the report of the Finance Committee.

ACTING PRESIDENT GRIFFO: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator O. Johnson, from the Committee on Finance, reports the following bill direct to third reading:

Senate Print 6806C, Senate Budget Bill, an act to amend the Arts and Cultural Affairs Law and others.

ACTING PRESIDENT GRIFFO: Without objection, the bill is ordered direct to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Calendar Number 713, Senate Print 6806C.

ACTING PRESIDENT GRIFFO: The

Secretary will read.

THE SECRETARY: Calendar Number 713, Senate Budget Bill, Senate Print 6806C, an act to amend the Arts and Cultural Affairs Law and others.

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT GRIFFO: There is message at the desk.

SENATOR SKELOS: Move to accept.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The message is accepted.

Senator Skelos.

SENATOR SKELOS: If we could have its third reading at this time.

ACTING PRESIDENT GRIFFO: The

Secretary will 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.)

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: To explain my vote, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you.

Well, yesterday we did the appropriations bill for public protection and general government, but it seemed to leave out lots of the appropriations for general government. But we were told we'd do those later.

Today we have a language bill which actually seems to reference appropriations we didn't make in yesterday's appropriations bill, but I'm told that we'll do that later, maybe in another bill.

This is not the way you do a

budget, gentlemen and ladies, as I said yesterday. We're doing these through messages of necessity, we're doing them without the memos on our desks required by the budget reform law we all passed last year. We're doing these prior to determining the revenues available to the State of New York.

So in fact, you're functioning blind on whether or not we have a balanced budget and our appropriations will match our revenues. And you're flying blind on the fact that we've got language bills that don't match appropriation bills, but we'll get to them later. It's as if we're doing a game of checkers or hopscotch as opposed to an actual budget.

So while, of course, there are some good things in the language bill, as there were good things in the appropriations bill -- and no one can always be happy. But I'd really like to know what it is we're voting on before we vote for or against them. And since we really can't say, I will vote against this bill as I voted against last night's appropriations bill.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Krueger to be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 713 are Senators Adams, Hassell-Thompson, L. Krueger, Perkins and Schneiderman.

Ayes, 55. Nays, 5.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, the Senate will stand at ease until 5:00 p.m.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease until 5:00 p.m.

(Whereupon, the Senate stood at ease at 2:38 p.m.)

(Whereupon, the Senate reconvened at 5:04 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: President Griffo, I just wanted to mention that there

will be an immediate conference of the Majority in the Majority Conference Room, and the Senate will stand at ease until 8:00 p.m. tonight.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Senate Majority in the Majority Conference Room, and the Senate will stand at ease until 8:00 p.m. this evening.

(Whereupon, the Senate stood at ease at 5:05 p.m.)

(Whereupon, the Senate reconvened at 8:15 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: The Senate will stand adjourned at the call of the Majority Leader.

ACTING PRESIDENT GRIFFO: Senator Skelos, the Senate stands adjourned at the call of the Majority Leader.

SENATOR SKELOS: Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: The Senate stands adjourned.

(Whereupon, at 8:16 p.m., the Senate adjourned.)