NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 12, 2008

3:02 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 everyone present to please rise and repeat with me the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT GRIFFO: In the absence of clergy, we will observe a moment of silence.

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

ACTING PRESIDENT GRIFFO: The reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 11, the Senate met pursuant to adjournment. The Journal of Saturday, May 10, 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 Lanza.

SENATOR LANZA: Mr. President, amendments are offered to the following Third Reading Calendar bills:

By Senator Fuschillo, page 40, Calendar Number 552, Senate Print Number 5795;

By Senator LaValle, page 44, Calendar Number 669, Senate Print Number 5030;

By Senator LaValle, page number 46, Calendar Number 694, Senate Print Number 5635.

Mr. President, I now move that these bills retain their place on the order of third reading.

ACTING PRESIDENT GRIFFO: Thank you, Senator Lanza.

The amendments are received and adopted, and the bills will retain their place on the Third Reading Calendar.

I'd ask that we please have order

in the house.

Senator Skelos.

SENATOR SKELOS: Mr. President, there are three substitutions at the desk. If we could make them at this time.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: On page 21, Senator Morahan moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 9444A and substitute it for the identical Senate Bill Number 6491A, Third Reading Calendar 64.

On page 40, Senator O. Johnson moves to discharge, from the Committee on Health, Assembly Bill Number 10062 and substitute it for the identical Senate Bill Number 7015, Third Reading Calendar 563.

And on page 57, Senator Fuschillo moves to discharge, from the Committee on Agriculture, Assembly Bill Number 1172 and substitute it for the identical Senate Bill Number 7406, Third Reading Calendar 898.

ACTING PRESIDENT GRIFFO: Substitutions so ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, Senator Bonacic has a resolution, Number 5832, at the desk. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator Bonacic, Legislative Resolution Number 5832, honoring Christopher Dolan upon the occasion of receiving the Police Purple Heart Award from the City of Middletown Police Department on May 13, 2008.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, Senator Bonacic has a resolution, Number 5833,

at the desk. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator Bonacic, Legislative Resolution Number 5833, honoring Jason Jennings and Alberto Lopez upon the occasion of receiving the Medal of Distinction from the City of Middletown Police Department on May 13, 2008.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, Resolution 5834 is at the desk, by Senator Bonacic. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The

Secretary will read.

THE SECRETARY: By Senator Bonacic, Legislative Resolution Number 5834, honoring Jamie Johnson, Patrick Cunningham and Frank Speranza upon the occasion of receiving the Medal of Valor from the City of Middletown Police Department on May 13, 2008.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, Resolution 5842, by Senator Aubertine, is at the desk. If we could have the title read, move for its immediate adoption, and open it up for cosponsorship.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator

Aubertine, Resolution Number 5842, commemorating the 100th Anniversary of Fort Drum.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted and open for cosponsorship if you register with the desk.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:06 p.m.)

(Whereupon, the Senate reconvened

at 3:11 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Yes, Mr. President. On Senator Aubertine's resolution, 5842, we opened it up for cosponsorship. If anybody wishes not to sponsor it, they should notify the desk.

ACTING PRESIDENT GRIFFO: Thank you for the clarification, Senator Skelos.

The resolution offered by Senator Aubertine regarding Fort Drum is available for cosponsorship. If you choose not to cosponsor the resolution, notify the desk.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 41, by Senator Smith, Senate Print 4390, an act to amend the Criminal Procedure Law, in relation to admissibility.

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, 50.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 64, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 9444A, an act to amend the Retirement and Social Security Law, in relation to mandatory retirement age.

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, 50.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 125, by Senator Volker, Senate Print 6680, an act to amend the Civil Service Law, in relation to resolution of disputes.

ACTING PRESIDENT GRIFFO: 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, 50.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 204, by Senator O. Johnson, Senate Print 6517, an act to amend the Tax Law, in relation to certain sales of fuel.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first day of the sales tax quarterly period.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 303, by Senator Flanagan, Senate Print 684B, an act to amend the Public Health Law, in relation to prohibiting smoking at playgrounds.

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, 50.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 304, by Senator Flanagan, Senate Print 690B, an act to amend the Public Health Law, in relation to making certain technical

amendments.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 444, by Senator Fuschillo, Senate Print 6799B, an act to create a course of instruction.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

484, by Senator Skelos, Senate Print 5195, an act to amend the Eminent Domain Procedure Law, in relation to abandonment.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 563, substituted earlier today by Member of the Assembly Sweeney, Assembly Print Number 10062, an act to amend Chapter 572 of the Laws of 1994 amending the Public Health 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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 571, by Senator Robach, Senate Print 3052A, an act to amend the Executive Law, in relation to prohibiting employers.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 643, by Senator Golden, Senate Print 4268A, an act to amend the Criminal Procedure Law and the Executive Law, in relation to disclosure.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 643 are Senators Duane and Montgomery.

Ayes, 50. Nays, 2.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 778, by Senator Trunzo, Senate Print 6690, an act to amend the General Municipal Law, the Town Law and the Village Law, in relation to permitting.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

816, by Senator Golden, Senate Print 209, an act to amend the Public Health Law, in relation to sales and purchases.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 898, substituted earlier today by Member of the Assembly Gunther, Assembly Print Number 1172, an act to amend the Agriculture and Markets Law, in relation to transportation of food.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 903, by Senator Farley, Senate Print 899B, an act to amend the Education Law, in relation to providing funding.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect April 1, 2009.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 904, by Senator LaValle, Senate Print 932A, an act authorizing the Temporary President of the Senate and the Speaker of the Assembly to commission.

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, 51. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 909, by Senator Robach, Senate Print 2978A, an act to amend the Executive Law and the Social Services Law, in relation to authorizing.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

923, by Senator C. Kruger, Senate Print 7536, an act to amend the Social Services Law, in relation to persons credentialed.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR SKELOS: Thank you, Mr. President.

If we could return to reports of standing committees for the report of the Rules Committee.

ACTING PRESIDENT GRIFFO: The Secretary will read the report of the Rules Committee.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the

following bills:

Senate Print 7314A, by Senator Hannon, an act to authorize the Levittown Union Free School District;

And Senate Print 7714, by Senator Padavan, an act to amend the Real Property Tax Law.

Both bills ordered direct to third reading.

Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT GRIFFO: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The report is received.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up those two bills now, noncontroversial.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 1103, by Senator Hannon, Senate Print 7314A, an act to authorize the Levittown Union Free School District to transfer.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1104, by Senator Padavan, Senate Print 7714, an act to amend the Real Property Tax Law, in relation to partial abatement.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR SKELOS: Is there any further business at the desk?

ACTING PRESIDENT GRIFFO: There is none.

SENATOR SKELOS: There being none, I move we stand adjourned until Tuesday, May 13th, at 3:00 p.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Tuesday, May 13th, at 3:00 p.m.

(Whereupon, at 3:20 p.m., the Senate adjourned.)