NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 27, 2008

3:07 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 please rise and join with me as we recite the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT GRIFFO: Today our prayer will be offered by Father Peter Young, of the Mother Theresa Community here in Albany.

Father.

REVEREND YOUNG: Thank you, Senator. Let us pray.

God, You have given us a marvelous example of charity, and You have called us to love one another.

Today we have heard that our dear friend Senator -- Mayor -- Griffin from Buffalo has gone on to Your reward. He has sent his blessings to us, and we to him.

By Your love You have made a world where we have become neighbors to each other, and we are enabled to love one another. Grant

that we too may use this Senate to strive toward a way of life in keeping with God's plan.

Amen.

ACTING PRESIDENT GRIFFO: Thank you, Father.

Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 26, the Senate met pursuant to adjournment. The Journal of Sunday, May 25, 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 Fuschillo.

SENATOR FUSCHILLO: Thank you,

Mr. President.

Amendments are offered to the following Third Reading Calendar bills:

Sponsored by Senator Skelos, page number 43, Calendar Number 351, Senate Print Number 6823;

By Senator Larkin, page number 54, Calendar Number 612, Senate Print Number 205;

By Senator DeFrancisco, page number 89, Calendar Number 1223, Senate Print Number 7546.

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

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

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Griffo, I wish to call up Senate Print Number 7167, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 708, by Senator Griffo, Senate Print 7167, an

act to amend the Highway Law and the Vehicle and Traffic Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT GRIFFO: The amendments are received and adopted.

SENATOR FUSCHILLO: Thank you.

Mr. President, on behalf of Senator Seward, I wish to call up Senate Print Number 2071, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 613, by Senator Seward, Senate Print 2071, an act to amend the Insurance Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was

passed.

ACTING PRESIDENT GRIFFO: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT GRIFFO: The amendments are received.

SENATOR FUSCHILLO: Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Fuschillo.

Senator Skelos.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: On page 34, Senator Trunzo moves to discharge, from the Committee on Health, Assembly Bill Number 10622 and substitute it for the identical Senate Bill Number 3680, Third Reading Calendar 107.

On page 40, Senator Flanagan moves

to discharge, from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 9060 and substitute it for the identical Senate Bill Number 3610, Third Reading Calendar 268.

On page 44, Senator Rath moves to discharge, from the Committee on Finance, Assembly Bill Number 9941 and substitute it for the identical Senate Bill Number 6730, Third Reading Calendar 358.

On page 48, Senator Morahan moves to discharge, from the Committee on Elections, Assembly Bill Number 112A and substitute it for the identical Senate Bill Number 5184A, Third Reading Calendar 470.

And on page 85, Senator Trunzo moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 10305 and substitute it for the identical Senate Bill Number 7328, Third Reading Calendar 1178.

ACTING PRESIDENT GRIFFO: The substitutions are so ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President,

there's a Resolution 6071 at the desk, by Senator Nozzolio. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution Number 6071, commemorating the 90th anniversary of Boy Scouts of America Troop 4 of Geneva, New York, to be celebrated on May 31, 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 carried.

Senator Skelos.

SENATOR SKELOS: Senator Volker has a resolution at the desk, 6078. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The

Secretary will read.

THE SECRETARY: By Senator Volker, Legislative Resolution Number 6078, honoring Investigator Jeffrey T. Arnold upon the occasion of his designation as the recipient of a Superintendent's Commendation Award at the 32nd Annual State Police Awards Day Ceremony on May 28, 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 Volker has another resolution at the desk, 6079. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator

Volker, Legislative Resolution Number 6079, honoring Trooper Jay A. Hoy upon the occasion of his designation as the recipient of a Superintendent's Commendation Award at the 23rd Annual State Police Awards Day Ceremony on May 28, 2008.

ACTING PRESIDENT GRIFFO: I'd ask for some order in the house, please.

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, 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 3:15 p.m.)

(Whereupon, the Senate reconvened at 3:21 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

Could we now have the noncontroversial reading of the Senate calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 107, substituted earlier today by Member of the Assembly Eddington, Assembly Print Number 10622, an act to amend the Public Health Law, in relation to requiring.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 126, by Senator Volker, Senate Print 6681, an act to amend the Civil Service Law, in relation to resolution of disputes.

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 268, substituted earlier today by Member of the Assembly Brodsky, Assembly Print Number 9060, an act to amend the Business Corporation Law, the Limited Liability Law, and the Partnership Law, in relation to mergers and consolidations.

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 358, substituted earlier today by Member of the Assembly Schimminger, Assembly Print Number 9941, an act to amend the Executive Law, in relation to including.

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 369, by Senator Larkin, Senate Print 5096, an act to amend the General Business Law, in relation to health club fees.

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 470, substituted earlier today by Member of the Assembly Pheffer, Assembly Print Number 112A, an act to amend the Election Law, in relation to filing of documents.

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 727, by Senator Fuschillo, Senate Print 7297, an act to amend the General Business Law, in relation to debt collection.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 838, by Senator Golden, Senate Print 6414, an act to amend the Penal Law and the Criminal Procedure Law, in relation to sentencing.

ACTING PRESIDENT GRIFFO: Senator Little.

SENATOR LITTLE: Mr. President, could the Senate please stand at ease for a moment.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease.

Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

The Senate may now proceed.

ACTING PRESIDENT GRIFFO: The Senate returns to order.

Read the last section.

THE SECRETARY: In relation to Calendar Number 838: Section 6. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I'm going to be voting in the negative on this. And as you know and as my colleagues know, I'm opposed to the death

penalty --

ACTING PRESIDENT GRIFFO: Excuse me, Senator Duane.

May we have some order, please.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I just wanted to reiterate my opposition to the death penalty under any circumstances. I'll be voting in the negative, Mr. President.

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

Senator Diaz.

SENATOR DIAZ: Yes, Mr. President, I would like to explain my vote.

As a minister, as a pastor of a church, I believe that all life is sacred. Since inception to the end, God gives life; God will take life.

So to take a life is something that my religion opposes, and I am telling you that I'm voting no on this, not only because I don't believe in taking life, but I also

believe that protecting life, the unborn, is also very important. That's why I oppose abortion, and that's why I'm opposing this one, because I want to be consistent in protecting life.

So life is sacred during inception, and life is sacred at the end. So I'm voting no.

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

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I just want to note that a lot of other jurisdictions in the country are actually moving away from the ideology of the death penalty.

And I would like to call the attention of this body to the evidence that was adduced at a hearing we held in Suffolk County a few months ago demonstrating that through absolute stone-cold exonerations of people who were wrongfully convicted through DNA evidence, we've established that 25 percent of those people who are exonerated

pleaded guilty to crimes they did not commit.

In most cases, we do not have DNA evidence to determine whether people are guilty or not. But given these statistics and the growing body of evidence that not only are there innocent people going to jail, but there are people who are innocent who are pleading guilty to crimes they didn't commit, we have to really take a hard look at this.

And I really think it's regrettable that this house is going to move forward towards the death penalty knowing, knowing -- unless we willfully choose to disregard the evidence in front of our eyes -- that under such a system innocent people will be put to death.

I vote no, Mr. President.

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

Senator Connor, to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

Mr. President, I rise once again to oppose the death penalty. I understand the

concern for the victims, in this case police officers who are brutally murdered. But I also understand that we have a fallible system of justice -- perhaps the best system of justice anywhere, but nonetheless administered by human beings and therefore fallible.

And it's been pointed out there have been exonerations in cases of murder, even in cases of confession. There's a whole body of psychology about why people falsely confess. And I say again, as I've said before on this floor for many, many years, no to the death penalty. It's unworthy of a civilized society. It's not a penalty we should impose. I will never vote for the death penalty under any circumstances.

Mr. President, I vote no.

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

Senator L. Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I rise also to go on record that I will not vote for a death penalty bill, now,

last year, next year.

But I am concerned that this bill popped up on our calendar so late today so that some of us who might have chosen to prepare more documentation of why we know that the death penalty is a flawed model of criminal justice would have had the opportunity to make that presentation.

So again, I vote no. Thank you, Mr. President.

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

Senator Maziarz, to explain his vote.

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

I feel just as passionately as some of my colleagues on the other side of the aisle in favor of this legislation.

You know, it was just about a year and a half ago that we had the widow of Trooper Joseph Longobardo sitting right there talking about what great service her husband did.

It was interesting in the Buffalo

News just two or three days ago, there was a front-page article about the individual, Ralph "Bucky" Phillips, who murdered Trooper Joseph Longobardo, how he's in prison -- and of course he escaped justice -- how he's in prison and he's complaining about the care that he's receiving in the Department of Corrections.

And the Department of Corrections reported that he's been sanctioned at least nine or ten times already, including attempting to make a homemade bomb to injure corrections officers.

This bill should become law in this state. Unfortunately, it won't, because of some -- the narrow-mindedness of some of my colleagues here and in the other house.

I definitely, affirmatively vote in the positive on this legislation.

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

Senator Golden, to explain his vote.

SENATOR GOLDEN: Thank you, Mr. President.

It is a privilege to stand before you today and to ask my colleagues to join us in passing a piece of legislation that would make a difference for the lives of the people that live in this great city and this great state.

Last week we stood outside this very institution and we went to the Police Memorial Wall and we met with many of the parents and the loved ones of those that have lost police officers and state troopers across this great city and state.

It's sad to see the numbers, how great they are. And it's important that we as a body, a legislative body, give the tools not only to the police departments across this great state but to the people, the 19.5 million people that live in this great state, that they can feel secure in that we have passed legislation that will defend the police officers and their families as they go to work each and every day.

This bill provides swift and severe and certain punishment for those that murder police officers. This bill will do something

about the 1,385 police officers that have been killed in this state -- the 508 that have been by gunfire, the 61 by assault, the three from a bomb, the 34 that were stabbed, the 49 by vehicle assaults.

Nationwide, this past year, there were 39 line-of-duty deaths, including two here in New York.

Academic studies show the death penalty has a deterrent effect. It shows that each additional execution decreases homicides by five to six. Each additional commutation increases homicides by the same amount. And an additional removal from death row generates one additional murder.

Arguments against the death penalty essentially are that criminals are not rational enough to behave according to incentives. But criminal activity declines as the price of such activity increases. We already have proof of this. Increased arrests, more police officers reduce crime. Crime is serious --

ACTING PRESIDENT GRIFFO: Senator Golden, excuse me.

May we have order in the house out of respect for our speaker. Thank you.

Senator Golden, you may continue.

SENATOR GOLDEN: If I just focus on the City of New York, they are down 5,000 police officers, and crime is creeping up in that city and across other cities here in the State of New York.

We've seen officers that were here last Wednesday. Police Officer Timoshenko, who was killed in the City of New York, his parents were here as they went over to the wall to see their son on that wall.

We've seen two auxiliary police officers gunned down in the City of New York because a crazed gunman thought that they were police officers and went back and put two shots into his head as he was laying on the ground.

The only way, the only deterrent is to put the death penalty into effect for those that would kill police officers and state troopers, correction officers, and those that are peace officers in the line of duty that are doing their work.

We believe it's the right piece of legislation. How many more police officers have to die here in this great state before we as a body and the Assembly do something so that we can send to the Governor a piece of legislation that works and brings down crimes, brings down murders, and brings down murders of the police officers across this great state?

I vote aye, Mr. President, and I thank you for your dedication.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 838 are Senators Adams, Aubertine, Breslin, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Oppenheimer, Perkins, Sabini, Sampson, Savino, Schneiderman, Serrano, Smith, Stavisky, Stewart-Cousins, Thompson and Valesky.

Ayes, 36. Nays, 23.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 973, by Senator Little, Senate Print 7050, an act to amend the Tax Law, in relation to authorizing the County of Clinton.

ACTING PRESIDENT GRIFFO: There is a local fiscal impact note at the desk.

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1012, by Senator Marcellino, Senate Print 3195C, an act to amend the Vehicle and Traffic Law and the Insurance Law, in relation to prohibiting.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President. I rise to explain my vote on this bill.

According to the AAA, the leading cause of death amongst young people between the ages of 15 and 20 are motor vehicle crashes. According to a recent Zogby poll, 66 percent of young people between the ages of 15 and 24 admit to texting while driving, while behind the wheel.

Mr. President, I don't believe in coincidence. It seems to me that we have proof positive that the carnage on our roads, especially amongst young people, 6,000 of which die every year as a result of auto crashes -- let me repeat that number. Six thousand young people die every year because of automobile crashes, the leading cause of death in that age range.

That's more than our brave troops, all of our brave troops that have died in

Afghanistan and Iraq since of the beginning of the war. This happens every year on our roads.

We had five people in Rochester, five young women in Rochester die. Records showed that they were either sending or receiving a text message as the incident occurred.

This is an outrage that has to be stopped. We're not trying to hurt anybody, we're trying to save lives. We're trying to get an educational component put in the driver education program, a question on the driver education test.

We want to make parents aware that they've got to talk and communicate to their youngsters when they give them that car, which is a missile, which can be a lethal weapon when not used appropriately, that they must take into consideration that they must watch the road and pay attention. Texting is a more dangerous distraction than anything else, because you've got to take both hands off the wheel and both eyes off the wheel to read the message.

It isn't safe, and young people and old people are dying. We must end this carnage. This bill will go a long way towards doing that.

Mr. President, I thank my colleagues for their support. I vote aye on this bill, and hopefully it will pass the other house.

ACTING PRESIDENT GRIFFO: Thank you, Senator Marcellino.

Senator Marcellino will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1034, by Senator Fuschillo, Senate Print 7620, an act authorizing the North Merrick Union Free School District.

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1053, by Senator Flanagan, Senate Print 1258A, an act to amend the Executive Law and the Criminal Procedure Law, in relation to probation administrative fees.

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.)

ACTING PRESIDENT GRIFFO: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I'll be voting in the negative on this. And I just want to point out that though this bill is different than the bill

that makes incarcerated people pay a copay on their -- if they have insurance while they are incarcerated, this bill is also onerous for people who are trying to pay their debt to society through the criminal justice system.

This is the bill where you pay money to pee into a cup. And the City of New York, counties -- no one has even done a memo in support of this. Maybe they will now that I said that. But I just don't see why we're charging people who are on probation for this test.

So I just think, in the spirit of humaneness, that we would vote no on this.

Thank you, Mr. President.

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

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

This bill says too many things. For example, it says that -- this bill is calling to authorize the Probation Department to collect an administrative fee of up to $30 per month for a person on parole. That means

$30 per month, times 12, is $360.

It also calls to charge the same person on parole for drug testing $8 per day for testing, up to $600 in a year. That means $360 plus $600. And it also calls for $900 per year for electronic monitoring.

That means that this bill is charging a person on parole $1,860 in a year just for being on parole. It doesn't say what would happen to a person that refuses to pay the money.

Even though the bill says -- even though the bill says that this bill is amended to establish that these new fees shall not be a condition of probation, but the bill doesn't say -- if this will not be a condition of probation, the bill doesn't say what's going to happen to a person who refuses to pay close to $1,800 a year for being on probation.

Three different fees. One for drug testing, one for administrative costs, and one for electronic monitoring.

So I don't know what it is are we trying to do here. Are we trying to get the money from -- that the state needs from the

people on parole? I don't think that's what we're doing.

So, Mr. President, this is a wrong bill. This is a very, very wrong bill, and I'm voting no on it.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1053 are Senators Adams, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Onorato, Perkins, Sabini, Sampson, Schneiderman, Serrano, Smith, Stavisky and Stewart-Cousins. Also Senator Breslin.

Ayes, 40. Nays, 19.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1082, by Senator Little, Senate Print 7492, an act to validate, ratify and legalize certain actions of the Town of Minerva.

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

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1129, by Senator Larkin, Senate Print 4843, an act to amend the Executive Law, in relation to rules and regulations.

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1132, by Senator Saland, Senate Print 5774, an act to amend the Education Law, in relation to

requiring fingerprinting.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 22. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1142, by Senator Volker, Senate Print 4029C --

SENATOR LITTLE: Lay it aside for the day, please.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 1167, by Senator Alesi, Senate Print 1654A, an act to amend the Retirement and Social Security Law, in relation to option election.

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1178, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 10305, an act to amend the Civil Service Law, in relation to appointment.

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, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1189, by Senator DeFrancisco, Senate Print

7206, an act to amend the New York State Defense Emergency Act, in relation to driver's license renewals.

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, 58. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1191, by Senator Leibell, Senate Print --

SENATOR LITTLE: Lay it aside for the day, please.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 1197, by Senator Leibell, Senate Print 8010, an act to amend the Executive Law, in relation to powers and duties.

ACTING PRESIDENT GRIFFO: Read

the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1206, by Senator Saland, Senate Print 7672, an act to amend Chapter 425 of the Laws of 2002, amending the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect July 1, 2002, and shall expire and be deemed repealed June 30, 2009.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

1210, by Senator Little, Senate Print 1099A, an act in relation to directing the Law Revision Commission.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1217, by Senator Winner, Senate Print 3316A, an act to amend the Town Law, in relation to enacting the Town Mergers Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1219, by Senator LaValle, Senate Print 7345, an act to amend the General Municipal Law, in relation to annual audits.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect June 30, 2008.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1232, by Senator Larkin, Senate Print 223, an act to amend the Education Law, in relation to requiring institutions.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

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

SENATOR LIZ KRUEGER: Thank you, Mr. President.

We've debated this bill in the past, so I'll just quickly summarize my concerns.

One, this legislation, if it became law, would put New York State in violation of the federal FERPA law, and it would put federal funds in jeopardy for our institutions of higher education.

Two, I believe the Legislature should respect the rights of individual adults 18 years and older and not attempt to legislate an open, trusting relationship between a parent and their adult children.

And three, if your children don't give you their grades from college and you're paying for college, you don't need the Legislature to take care of this; simply tell them you won't pay the next semester's bill

until they give you their grades.

So I don't think this is appropriate legislative territory for us, and it would put us in a violation of federal law. And finally, I don't think it's necessary.

I vote no. Thank you, Mr. President.

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

Senator Diaz, to explain his vote.

SENATOR DIAZ: Again, I have to stand up here and vote yes on this piece of legislation. Because there is nothing wrong, there's nothing wrong for a parent that sends their children to college and trying to find out how are they doing.

As long as those students live under that roof and those parents are paying for that education, and paying rent, food and whatever, and clothes, even though they are 19 years old or 20 years old, parents have the right. They live under that roof, they are responsible for those children even though they are above 18 years of age.

I think that parents have the right

to write to college and say, Send me a report or give me a report on how my children are doing in the college.

So yes, I'm voting yes, because we have enough of taking parents' rights away. We have been taking parents' rights away from left to right.

I mean, the parents have no right to decide if their 13-year-old daughter would have like to have an abortion, so we've taken that right away. So at 13 years old, a girl could have an abortion and the parents have nothing to do, have nothing to say. We're taking those rights away.

I mean, you know, enough. Enough. Parents are parents, and they will never end being parents. My children, my youngest one is 35 years old, my youngest one, and I'm still being a parent. I am his father, and I will never end being a parent. And I would like to know what it is they're doing, even though they're already married.

So if those kids -- I'm going to repeat myself again -- if those students live under that roof and those parents are paying

for that education, there's nothing wrong for the parent to find out and for the college to report to the parent if those children are missing school, are playing hookey and the parents are wasting their money.

So yes, I'm voting yes, and I congratulate the sponsor on this.

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

Senator Adams, to explain his vote.

SENATOR ADAMS: Thank you, Mr. President.

I want to add my voice also to vote yea on this bill. I think that Senator Krueger does raise an issue, but I think that it's important that independence doesn't come with age, it comes with status. And as long as a young person is in the home of their parent and they're not paying their own tuition, then they don't have independence. They still are dependent on their family.

But in addition to that, I don't believe there are any rights of privacy in a household, and I think far too often we find out too late what our children are involved in

is because we believe they have some constitutional right to privacy inside the home of their family.

Not only do I believe we should know the grades they're having, but we need to search their rooms. We need to see what's inside their rooms. We need to be gainfully involved in what a child is doing.

And I think this bill is the first step of identifying if there is some academic issue with a child. You don't want to wait until they are on academic probation and removed from school to determine that there was a problem.

College is too expensive to play games. You can get F's sitting at home. And if you want your parents to pay your tuition, then you need to turn over those grades. I vote aye.

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

Senator Connor, to explain his vote.

SENATOR CONNOR: Thank you, Mr. President.

As I said last time we debated this, as someone who went through college in the '60s, that wonderful generation where we fought for all sorts of rights for 18-year-olds, I candidly admit that 20 years ago I would have voted no for this. But as a parent of two sons who are in college, a whole other spectrum opens up.

You know, I laugh when we get mail at home, my boys are usually away at college, they go away to college. You know, they get mail at home, all sorts of important mail from the schools. You know, we wouldn't open their mail. We send it on to them. You know, then you find out later that one was about some insurance thing that they missed a deadline for, or the other was about some other important deadline or opportunity for them.

But it's oh, yeah, "Did you get that thing in the mail?" "Yeah, yeah, I didn't read it yet." Or "Yeah, I read it, the deadline was whenever." Eighteen-, 19-, 20-year-olds are what they are.

The one thing that comes addressed to me, though, twice a year for each of them

is the bill. They don't seem to have any problem sending that to the parents.

And, you know, it's not just about, hey, I pay the tuition, room and board, you know, I want to see your grades and if you're not doing well, I'll stop paying. And I certainly don't want to threaten if they don't tell me their grades that, you know, I'm not going to pay for them anymore.

The real concern is, you know, sometimes suddenly failing grades are an indication of a problem in that child's life. And yeah, legally adults at 18. What parent, what parent doesn't want to know that their 18-, 19- or 20-year-old is experiencing some difficulty, emotional or otherwise, that's affecting their ability but, more importantly, could be jeopardizing their lives?

And I certainly know other parents who have discovered, unfortunately too late, that their child had developed a drug problem or whatever, and they would have known had they seen how poorly they were suddenly doing in school. Really bright kids go off with great expectations, get good grades for a

semester or two, and the grades crash. It's information parents ought to have to do their job.

Because, you know, your job doesn't end on that 18th birthday. They're always your children. They're always certainly dear to your heart. And you always feel responsible to try and assist them when they are in need.

So I think it's important, and I'm supporting this legislation because from the perspective I now have, I want to know those grades, I want to know how my kids are doing. And it's not just I pay, it's I care about them.

Thank you, Mr. President.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1232 are Senators Breslin, Duane, Hassell-Thompson, L. Krueger, Perkins and Serrano.

Ayes, 54. Nays, 6.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: Calendar Number 1244, by Senator Maltese --

SENATOR SKELOS: Lay it aside for the day, please.

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 1245, by Senator Maziarz, Senate Print 6788, an act in relation to establishing a work group.

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, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1250, by Senator Robach, Senate Print 8213, an act to amend the Labor Law, in relation to changing the method of charging.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1484, by Senator DeFrancisco, Senate Print 8260, an act to amend Chapter 62 of the Laws of 2003, amending the Public Service 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, 60.

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 Rules report.

ACTING PRESIDENT GRIFFO: Excuse me, Senator Skelos.

Can we have order, please, in the chamber.

Senator Skelos.

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

ACTING PRESIDENT GRIFFO: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading:

Senate Print 6339A, by the Senate Committee on Rules, an act to amend the Tax Law.

ACTING PRESIDENT GRIFFO: 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 accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Calendar Number 1535, Senate 6339A.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 1535, by the Senate Committee on Rules, Senate Print 6339A, an act to amend the Tax Law, in relation to banking corporations.

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, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any further business to come before the Senate?

ACTING PRESIDENT GRIFFO: There is none.

SENATOR SKELOS: There being none, I move we stand adjourned until Wednesday, May 28th, at 3:00 p.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Wednesday, May 28th, at 3:00 p.m.

(Whereupon, at 4:01 p.m., the Senate adjourned.)