NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 2, 2008

3:06 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: Our invocation today will be offered by the Reverend Peter Young, from the Mother Theresa Community here in Albany.

Father.

REVEREND YOUNG: Thank you, Senator.

Let us pray.

New Yorkers saw the christening of the American flag when the Stars and Stripes were flown in battle at the defense of Fort Stanwix, in Rome, in Senator Griffo's district -- and whose parents are here today, celebrating more than 62 years of marriage. The flag was first flown in battle at this defense.

And with great pride, then, we are

able to serve as Senators in this patriotic tradition as the elected leaders to fulfill Your call, O God, of leadership to all of the citizens of our great state.

Amen.

ACTING PRESIDENT GRIFFO: Thank you, Father.

The reading of the Journal.

THE SECRETARY: In Senate, Saturday, May 31, the Senate met pursuant to adjournment. The Journal of Friday, May 30, 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 Farley.

SENATOR FARLEY: Thank you, Senator Griffo.

And congratulations to your mother and father. Sixty-two years, that's incredible. I think that marriage is going to take.

(Laughter.)

SENATOR FARLEY: On behalf of Senator Young, Mr. President, I wish to call up her bill, Senate Print 6997, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 1019, by Senator Young, Senate Print 6997, an act to amend the Highway Law.

SENATOR FARLEY: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT GRIFFO: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

SENATOR FARLEY: Mr. President, I

now offer the following amendments.

ACTING PRESIDENT GRIFFO: The amendments are received.

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

On behalf of Senator Saland, on page 48, Calendar Number 1120, Senate Print 7293;

On behalf of Senator Volker, on page 55, Calendar Number 1208, Senate Print 7964;

On behalf of Senator Libous, on page 62, Calendar Number 1305, Senate Print 6516;

On behalf of Senator Libous, on page 79, Calendar Number 1497, Senate Print 6037A;

On behalf of Senator Fuschillo, on page 81, Calendar Number 1522, Senate Print 1312;

On behalf of Senator Morahan, on page 23, Calendar Number 558, Senate Print 7033;

On behalf of Senator Griffo, on

page 37, Calendar Number 916, Senate Print 5482A;

On behalf of Senator Trunzo, on page 68, Calendar Number 1372, Senate Print 1324;

And on behalf of Senator Padavan, on page 71, Calendar Number 1406, Senate Print 8201.

Mr. President, I move that these bills be amended and that they 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 Duane.

SENATOR DUANE: Thank you, Mr. President.

I wish to call up Senator Carl Kruger's bill, Senate Print Number 7437, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number

813, by Senator C. Kruger, Senate Print 7437, an act to amend the Executive Law.

SENATOR DUANE: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT GRIFFO: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT GRIFFO: Senator Duane.

SENATOR DUANE: Mr. President, I now offer the following amendments.

ACTING PRESIDENT GRIFFO: The amendments are received.

SENATOR DUANE: Thank you.

ACTING PRESIDENT GRIFFO: Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there are substitutions to be made at this time.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: On page 32,

Senator Padavan moves to discharge, from the Committee on Health, Assembly Bill Number 373 and substitute it for the identical Senate Bill Number 3437, Third Reading Calendar 818.

On page 36, Senator Padavan moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 5375 and substitute it for the identical Senate Bill Number 5207, Third Reading Calendar 895.

And on page 68, Senator DeFrancisco moves to discharge, from the Committee on Codes, Assembly Bill Number 2385 and substitute it for the identical Senate Bill Number 56B, Third Reading Calendar 1369.

ACTING PRESIDENT GRIFFO: Substitutions so ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, Senator Owen Johnson has a resolution at the desk, 6217. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator O. Johnson, Legislative Resolution Number 6217,

commending noted author Vivian Farrell, in recognition of her many professional accomplishments and outstanding service to her community.

ACTING PRESIDENT GRIFFO: The question is on the resolution. All in favor indicate 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, if we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 17, by Senator Leibell, Senate Print 3587A, an act to amend the Penal Law and the Not-for-Profit Corporation Law, in relation to prohibiting.

ACTING PRESIDENT GRIFFO: Read

the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2009.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 19, by Senator Leibell, Senate Print 3743A, an act to amend the Executive Law, in relation to increasing port security.

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, 45.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 174, by Senator Maziarz, Senate Print 521A, an

act to amend the Judiciary Law, in relation to compensation.

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, 45.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 239, by Senator Marcellino, Senate Print 632A, an act to amend the General Business Law, in relation to prohibiting charging.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: Calendar Number 364, by Senator Morahan, Senate Print 2442, an act to amend the General Business Law, in relation to prohibiting late charges.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 724, by Senator Nozzolio, Senate Print --

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

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 753, by Senator Padavan, Senate Print 2883, an act to amend the Penal Law, in relation to establishing the crimes of false

identification.

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, 45.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 815, by Senator C. Kruger, Senate Print 7449, an act to amend the Social Services Law and the Domestic Relations Law, in relation to certification and approval.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect October 1, 2008.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 818, substituted earlier today by Member of the Assembly Pheffer, Assembly Print Number 373, an act to amend the Public Health Law, in relation to the fine for violation.

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

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 841, by Senator Lanza, Senate Print 7052A, an act to amend the Criminal Procedure Law and the Family Court Act, in relation to notification of service.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 895, substituted earlier today by Member of the Assembly Markey, Assembly Print Number 5375, an act to amend the Agriculture and Markets Law, in relation to posting requirements.

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, 46.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

935, by Senator Flanagan, Senate Print 833, an act to amend the Election Law, in relation to statements of campaign receipts.

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, 47.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1052, by Senator Trunzo, Senate Print 883, an act to amend the Correction Law, in relation to sex offenders.

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 1124, by Senator Morahan, Senate Print 2441, an act to amend the Tax Law, in relation to providing school bus operators.

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

Read the last section.

THE SECRETARY: Section 2. 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 1339, by Senator Golden --

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

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 1342, by Senator Winner, Senate Print --

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

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 1360, by Senator Skelos, Senate Print 3215A, an act to amend the Retirement and Social Security Law, in relation to the special retirement plan.

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

The Secretary will 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 1369, substituted earlier today by Member of

the Assembly Cusick, Assembly Print Number 2385, an act to amend the Penal Law and the Civil Rights Law, in relation to the crime of disturbance of a funeral.

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 Perkins.

SENATOR PERKINS: Thank you, Mr. President.

I just want to note, for the record, had I been in the chambers at the time, I would have voted no on Calendar Number 753.

ACTING PRESIDENT GRIFFO: The record shall so reflect.

The Secretary will read Calendar Number 1410.

THE SECRETARY: Calendar Number 1410, by Senator Marcellino, Senate Print 634C, an act to amend the Vehicle and Traffic Law, in relation to operation of motor vehicles.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1429, by Senator Fuschillo, Senate Print 4307A --

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

ACTING PRESIDENT GRIFFO: Lay it aside for the day.

THE SECRETARY: Calendar Number 1448, by Senator Volker, Senate Print 3174, an act to amend the Correction Law, in relation

to allowing inmate labor.

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, 52.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1455, by Senator LaValle, Senate Print 7834, an act to amend the Correction Law, in relation to sex offender registration.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

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 1465, by Senator DeFrancisco, Senate Print 5076A, an act to amend the Insurance Law and the Civil Practice Law and Rules, in relation to standard fire insurance policies.

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, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1466, by Senator Fuschillo, Senate Print 5131, an act to amend the Insurance Law, in relation to homeowners' policies.

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 1478, by Senator Seward, Senate Print 7764, an act to amend the Insurance Law, in relation to information required.

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 1487, by Senator Little, Senate Print 2342, an act to amend the General Municipal Law, in relation to taking of billboards.

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

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 1488, by Senator Volker, Senate Print 4253, an act to amend the General Municipal Law, in relation to members and powers.

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 1500, by Senator Skelos, Senate Print 7350, an act to amend the Business Corporation Law, in

relation to vote of shareholders.

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 1516, by Senator Morahan, Senate Print 7576, an act to amend the Mental Hygiene Law, in relation to disclosure of sexual offender registry.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The

bill is passed.

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

SENATOR SKELOS: Thank you, Mr. President.

I believe Senator Robach has a motion to make at this time.

ACTING PRESIDENT GRIFFO: Senator Robach.

SENATOR ROBACH: Yes, Mr. President.

On page 81 I offer the following amendments to Calendar Number 1518, Senate Print Number 7751, and ask that said bill retain its place on Third Reading Calendar, on behalf of Senator Hannon.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any further business at the desk?

ACTING PRESIDENT GRIFFO: There is no further business.

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

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Tuesday, June 3rd, at 3:00 p.m.

(Whereupon, at 3:24 p.m., the Senate adjourned.)