NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:19 p.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

FRANCIS W. PATIENCE, Secretary

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: In the absence of clergy, I ask that we all bow our heads in a moment of silent reflection.

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

ACTING PRESIDENT GRIFFO: The reading of the Journal.

THE SECRETARY: In Senate, Monday, February 28, the Senate met pursuant to adjournment. The Journal of Sunday, February 27, 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.

We have a report. The Secretary will read.

THE SECRETARY: Senator DeFrancisco, from the Committee on Finance, reports the following nomination.

As commissioner of the Office of Alcoholism and Substance Abuse Services, Arlene Gonzalez-Sanchez, of Fresh Meadows.

ACTING PRESIDENT GRIFFO: Senator Klein.

SENATOR KLEIN: Thank you, Mr. President. It's my distinct pleasure to nominate Arlene Gonzalez-Sanchez as commissioner of the State Office of Alcoholism and Substance Abuse Services.

I have the privilege of knowing Arlene and her husband, who is an active member of my district. He was once the head of Bronx Psychiatric Center, Lincoln Hospital, among others.

And Arlene is truly someone who has dedicated her life to public service. She serves as commissioner and director of community services at the Nassau County

Department of Mental Health, Chemical Dependency and Developmental Disabilities Services, after working as deputy commissioner for two years. She's also the cochair of the Nassau County Health Disparity Task Force.

Prior to working for Nassau County, Ms. Gonzalez-Sanchez served in the New York City Department of Health and Mental Hygiene for a decade. She also served as director of the Bronx Health Corps.

You know, in this time when we all want to make sure that people who are fighting alcohol and drug dependency have an advocate, someone who can truly be there on their side, I can't think of anyone better than our future commissioner, Arlene Gonzalez-Sanchez. I wholeheartedly nominate her, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Klein.

Is there any other member wishing to be speak on the nomination?

The nomination has been moved. The question, therefore, is on the nomination of Arlene Gonzalez-Sanchez as commissioner of the Office of Alcoholism and Substance Abuse

Services. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: Arlene Gonzalez-Sanchez is hereby confirmed as commissioner of the Office of Alcoholism and Substance Abuse Services.

Congratulations, Commissioner. And to you and your family, we welcome you.

(Applause.)

ACTING PRESIDENT GRIFFO: Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

May we please adopt the Resolution Calendar except for the following resolutions please: 591, 669, 675, and 676.

ACTING PRESIDENT GRIFFO: All in favor of adopting the Resolution Calendar as

identified signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The Resolution Calendar as identified is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time, Mr. President, I believe that Senator Nozzolio has Resolution Number 669 at the desk. I ask that you would read it in its entirety and call on Senator Nozzolio, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution Number 669, commending the South Seneca Elementary School Fifth Grade Swing Chorus upon the occasion of its participation in Music in Our Schools Month 2011.

"WHEREAS, The administrators of South Seneca Elementary School in Seneca

County's South Seneca Central School District are committed to actively promoting and nurturing a comprehensive music program for all the students in the district; and

"WHEREAS, Those same administrators have been supportive, actively encouraging music program staff to devote their time and energy to developing the talents of their students; and

"WHEREAS, The Fifth Grade Swing Chorus of South Seneca Elementary School, Interlaken, New York, comprised of students of the highest musical and academic caliber, will be performing on March 1, 2011, at the South Concourse of the Empire State Plaza in Albany, in celebration of the 39th Annual Music in Our Schools Month; and

"WHEREAS, The New York State School Music Association sponsors this event and has helped it to evolve from a New York State Day into a month-long national observance, the theme of which is, this year, "Music Lasts a Lifetime"; and

"WHEREAS, Talent, dedication and countless hours of practice have made the

Fifth Grade Swing Chorus of South Seneca Elementary School the outstanding ensemble it is today; and

"WHEREAS, The talented members of the Fifth Grade Swing Chorus include: Cole Acker, Tyler Acker, Catie Adams-Compton, Jesse Bower, Justin Carmona, Cameron Cupp, Julia Diamond, Jeffery Elliott, Dominiq Kio, Annabelle MacIntosh, Haleigh Mills, Benjamin Pollack, Amber Relyea, Alexandria Rought, Skylar Shaulis, Dylan Stiles, Tessa Taylor and John Zajac; and

"WHEREAS, Ably led by choral music teacher Diane W. Dersch, the members of the South Seneca Elementary School Fifth Grade Swing Chorus work hard at their music rehearsals, classroom assignments, and practice sessions, fully aware that the amount of time and energy they are willing to expend directly affects the quality of their music; and

"WHEREAS, The South Seneca Elementary School Fifth Grade Swing Chorus members, along with their parents and teachers, can be justifiably proud of their

musical achievements and their participation in Music in Our Schools Month; now, therefore, be it

"RESOLVED, That this Legislative Body extend a warm welcome to the staff, students, and parents of South Seneca Elementary School as they visit Albany for the performance at the Empire State Plaza; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the South Seneca Elementary School Fifth Grade Swing Chorus and to Diane W. Dersch, director."

ACTING PRESIDENT GRIFFO: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

And thank you, Clerk Testo, for your excellent reading of that resolution, as always.

Ladies and gentlemen, my colleagues, that on this very busy day in the State Capitol it's exciting to see a group of enthusiastic young people from the South

Seneca Central School District who are here to add joy to the proceedings of the New York State Legislature as well as adorn the Capitol Building.

I wish you all could have been with me on the Million Dollar Staircase when I just heard such a wonderful rendition of the beautiful song "God Bless America" by this wonderfully talented chorus.

The resolution speaks to their unity and how well they've come together. And we certainly need to give thanks to Diane Dersch for her leadership, her great teaching and instructing a group of enthusiastic, wonderful young people on the beautiful art of singing. Their music, their chorus was stellar.

I want to list, on the potential of missing out of someone, excluding someone from the list I have, but I have a list of those teachers who traveled with the chorus today, along with Instructor Dersch: Lynda Diamond, Todd Kurzweil, Kevin Webster, Jennifer Worrell, and Ray Zajac, Jr., along with a number of parents who took time out of their

schedules to be with their young children in helping provide the Capitol Building with such wonderful sounds: Scott and Emily Diamond, Jessica Elliott, Deanna and Kevin Mills, Jennifer Taylor, Elizabeth Stiles, Jodi Zajac, Allan Pollack, Joan Shaulis, Ron, Connie and Dylan Carmona, Michael Rought, Kelley MacIntosh, Todd and Tammy Acker, and Chip Adams-Compton.

And if I've left your name out who made the trip, I apologize.

But I want to thank you all, members of the South Seneca community. Not with the largest school budget, not with the largest number of children in school, not from anywhere near the wealthiest community on the other side of the aisle, but one of the most challenged communities that we have in the Central Finger Lakes, a community that's come together and shown that it can produce excellent young students who contribute to our world.

Mr. President, I want to thank all those parents, instructors and, last but not least, the wonderful members of the South

Seneca Elementary School Chorus for being here today, for doing such a wonderful job, and for brightening up our day in the New York State Capitol.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Nozzolio.

Is there any other Senator wishing to speak on the resolution?

Hearing none, 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 carried.

And the house would like to extend a warm welcome and congratulations to the South Seneca Fifth Grade Swing Chorus. Congratulations and welcome.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Thank you, Senator Nozzolio. Thank you, Mr. President.

Mr. President, I believe that Senator Stewart-Cousins has a privileged resolution at the desk. Would you please read it in its entirety and then call on Senator Stewart-Cousins, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator Stewart-Cousins, Legislative Resolution Number 510, honoring Yonkers Public School Superintendent Bernard P. Pierorazio upon the occasion of being named the New York State School Superintendent of the Year by the New York State Council of School Superintendents.

"WHEREAS, It is the sense of this Legislative Body to recognize and commend those illustrious individuals of distinguished purpose whose lives have been committed to the pursuit of excellence in education of the youth of the Empire State; and

"WHEREAS, This Legislative Body is justly proud to honor Yonkers Public School

Superintendent Bernard P. Pierorazio upon the occasion of being named the New York State School Superintendent of the Year by the New York State Council of School Superintendents; and

"WHEREAS, Currently serving as superintendent of the Yonkers Public Schools, the fourth largest district in New York State, Bernard Pierorazio formerly served as deputy superintendent, assistant superintendent, and principal of Saunders Trades and Technical High School, which under his leadership became a United States Department of Education Blue Ribbon School of Excellence as well as a New American High School; and

"WHEREAS, Bernard Pierorazio, a graduate of the Yonkers Public Schools District, continued his studies at Central Connecticut State University, the College of New Rochelle, and Iona College, earning degrees in history, special education, and administration and supervision. With strong community loyalty and dedication to education, he returned to his native Yonkers, working as a teacher, dean, and administrator; and

"WHEREAS, Bernard Pierorazio has received numerous prestigious awards and recognitions that highlight his educational career and are testimony to his community commitment. Some of these include the Rotary Club of Yonkers Leadership in Education Award, the Boy Scouts of America Excellence in Education Award, the American Congress of Italian Migration Educator of the Year Award, the Westchester Association of Hispanic Professionals Award; Eastchester Tuckahoe Lions' Club Man of the Year Award, and the New York Association for Continuing Community Education Lawrence Levin Professional Award; and

"WHEREAS, As a result of Bernard Pierorazio's leadership and action as superintendent of the Yonkers School District, the children's quality of education has dramatically improved. He is responsible for the development of the district's five-year plan leading to unitary status and ending court-ordered desegregation; restructuring of middle schools resulting in increased Regents scores and graduation rates; increasing the

number of high schools from five to nine; and increased parent involvement with student learning through Blackboard and mass telephone communication; and

"WHEREAS, Bernard Pierorazio has served as the keynote speaker at many local, state and national conferences. He has also hosted and participated in numerous school-related programs for television stations, including Yonkers' public education station, WDMC, and Cablevision News 12; and

"WHEREAS, Educators like Bernard Pierorazio provide a tremendous service to the future of our state and nation, inspiring generations of young people in their educational journeys and ensuring their success in their future years; and

"WHEREAS, Bernard Pierorazio has had an enduring impact on the youth of the Yonkers Public School District, as well as on the community at large, and accordingly merits recognition and applause for his impressive dedication to others; and

"WHEREAS, With him throughout have been his wife, Tina, his sons, Phillip and

Michael, as well as his parents, Joseph and Lillian, all of whom feel privileged to be part of his life and rejoice in his achievements; and

"WHEREAS, It is the sense of this Legislative Body to commend efforts of those individuals who work to support our proud tradition of public education by providing their skills and talents to our schools; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor Yonkers Public School Superintendent Bernard P. Pierorazio upon the occasion of being named the New York State School Superintendent of the Year by the New York State Council of School Superintendents, and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to Bernard P. Pierorazio, Yonkers Public School Superintendent."

ACTING PRESIDENT GRIFFO: Senator Stewart-Cousins on the resolution.

SENATOR STEWART-COUSINS: Thank you, Mr. President.

It is really an honor to stand before this body and recognize my Yonkers school superintendent as the School Superintendent of the Year. Obviously, New York State picks a superintendent each year, and I hope that each of you have an opportunity to rise and congratulate your superintendent.

My superintendent, as you've heard, is quite extraordinary. And I speak from firsthand experience, because I first met Bernard Pierorazio when he was, I guess, an assistant principal and then principal of one of my three children who went to Saunders.

Saunders is an extraordinary place. And what Mr. Pierorazio brought to Saunders created the atmosphere of excellence that continued despite very difficult times in Yonkers.

I have watched Mr. Pierorazio grow in every role that he has been given. I have watched him continue to include the parents. I have watched him make sure that excellence is the watchword of every school in Yonkers. He has helped us during, again, very difficult

times to find ways creatively and innovatively to bridge the gap.

He is someone who is exceptional. And this year -- I'm sorry to bring him forward this year, because this year is an extremely difficult year. But I thought that you should see him to know, as we request even more -- as we usually do, because we need so much more. Yonkers is one of the Big Five. Yonkers is the only one of the Big Five cities that is in good standing. And yet Yonkers is, again, operating with less than what it needs.

We have done creative things. We have a superintendent that does creative things. But together we can make Yonkers as exceptional as it can be under the leadership of a very, very great state superintendent.

So I want to congratulate you and thank you for really raising the bar for everyone in New York State. Enjoy this year. We are very privileged and proud to have you.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Stewart-Cousins.

Is there any other Senator wishing

to speak?

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, if any.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is carried.

Our congratulations and best wishes to Superintendent Bernard Pierorazio, who is with us today. Congratulations, Mr. Superintendent.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe there's another resolution at the desk that was previously adopted by Senator DeFrancisco. I ask that you read the resolution in its entirety and call on Senator DeFrancisco.

ACTING PRESIDENT GRIFFO: The

Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 187, congratulating the North Syracuse All-Star Baseball Team on their 2010 Babe Ruth World Series Championship.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit that is nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play, teamwork, and competition; and

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute to those young people within the State of New York who, achieving outstanding success in athletic competition, have inspired and brought pride to their community; and

"WHEREAS, This Legislative Body is justly proud to congratulate the North Syracuse All-Star Baseball Team on their 13-to-15-year-old 2010 Babe Ruth World Series Championship; and

"WHEREAS, To bring home a World Series Championship, as did the 2010 North Syracuse All-Star Baseball Team, is a wonderful achievement. The team defeated Saginaw Valley, Michigan, 7 to 4, to capture their first World Series Championship after competing in three consecutive World Series; and

"WHEREAS, In addition to the North Syracuse team's success, 2010 was a year for individual milestones as well. Bishop Ludden's Ryan O'Kane was named the tournament's Most Valuable Player, and Baldwinsville's Gabe Levanti and Liverpool's Pat Wright were named to the All-Tournament Team along with O'Kane; and

"WHEREAS, No team, no matter how gifted one or a handful of its members may be, can succeed without outstanding talent throughout its entire roster. Such was the

case for the 2010 North Syracuse All-Star Baseball Team, whose players included Tyler Bliss, Joe Bodnar, Dan Brower, Alex Caruso, Brett Charbonneau, Matt DiPaulo, Eric Hamilton, Brandon Kapcinski, Gabe Levanti, Ryan O'Kane, Nick Pilotti, Pat Wright, and Dan Zimmerman; and

"WHEREAS, The success of the North Syracuse All-Star Baseball Team is due in great part to the efforts of Manager Dom Caruso and his outstanding assistant coaches, Tom Medicis and John Levanti. The team was also assisted by the never-ending encouragement and support of friends, family, and the community; and

"WHEREAS, The 2010 North Syracuse All-Star Baseball Team shared noteworthy attributes off the field as well as in competition. Individually and collectively, they constantly exhibited good sportsmanship, thereby demonstrating to themselves and to others that they have been an enviable combination of talent and character which reflects favorably upon their community; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the 2010 North Syracuse All-Star Baseball Team on their Babe Ruth World Series Championship; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the members of the 2010 North Syracuse All-Star Baseball Team and its coaches."

ACTING PRESIDENT GRIFFO: Senator DeFrancisco on the resolution.

SENATOR DeFRANCISCO: Thank you.

We're pleased to have the North Syracuse All-Star Baseball Team, the Babe Ruth World Championship Team, in the gallery.

It's not an unusual situation where we bring championship teams from Onondaga County here to the Senate. I'm a little embarrassed for all the other Senators who don't get that opportunity very often.

But we have some very talented people in our community. And can you imagine this fact, that they won the Babe Ruth World Series Championship by beating Saginaw Valley, Michigan -- they won it, won the championship

after competing in three consecutive World Series. I mean, that is real consistency. And it's an amazing thing for the players as well as the coaches to have that kind of record in a World Series event.

The other important point of this resolution I think is the other attributes that are mentioned at the end. Good sportsmanship, which shows not only the talent they have, but the great character they have.

And let me explain something to you, that you're going to remember the people you're with now for the rest of your life. My friends when I played sports are my friends to this very day. And the lessons you learn on the field are going to bode well for you throughout your life -- the good sportsmanship, the hard competition, and to be the best you can possibly be.

So congratulations on this great achievement. And more importantly, congratulations because you're going to be the leaders of tomorrow.

Thank you for coming.

(Applause.)

ACTING PRESIDENT GRIFFO: Thank you, Senator DeFrancisco.

Senator Valesky, on the resolution.

SENATOR VALESKY: Thank you, Mr. President.

I want to join Senator DeFrancisco in congratulating our young baseball stars from North Syracuse and welcoming them to the State Capitol.

I would just add one other point from the resolution which was just read a few moments ago. But in addition to the athletic achievements that you have achieved for yourselves, note that what you have done -- and what we say here in this resolution -- that you have inspired and brought pride to their community. Inspired and brought pride to your community. That means your village, that means your town, that means your school district, that means Onondaga County, it means all of Central New York.

So you did more than just win a series of baseball games, including one in Michigan, to allow us to call you World Series champions; you inspired and brought pride to

all of us who are proud to represent you. So thank you very much, and congratulations.

ACTING PRESIDENT GRIFFO: Thank you, Senator Valesky.

Is there any other Senator wishing to speak on the resolution?

Seeing none, 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.

And we want to extend our congratulations again to the North Syracuse All-Star Baseball Team World Series Champions of the Babe Ruth League.

Congratulations. It's good to know that spring training is here and the season is at hand.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe there is a resolution at the desk by Senator Rivera. He would ask that we read its title only, and then please call on Senator Rivera.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator Rivera, Legislative Resolution Number 675, congratulating the Celia Cruz Bronx High School of Music Show Choir upon the occasion of being named the "Best Choir in New York City" at the Bronx Zoo's Inaugural SING! for Wildlife competition on December 30, 2010.

ACTING PRESIDENT GRIFFO: Senator Rivera.

SENATOR RIVERA: Thank you, Mr. President.

I stand today to congratulate the students from the Celia Cruz High School for their "Best Choir in New York City" win just a couple of weeks ago.

And I was hoping that Senator Nozzolio would be here, since he was thanking

the South Seneca Elementary School choir. This is obviously -- we're kind of in the same field here.

They actually won the first competition that was held by the Bronx Zoo, by the SING! for Wildlife competition. And it was -- I saw them perform at the Hard Rock Cafe just a couple of weeks ago. They started with "Route 66," so kind of a jazzy number, then moving on to some classical choral performances, and finishing off with a "Phantom of the Opera" rendition.

And these kids are an inspiration. The Celia Cruz High School is only a couple of blocks from my home. And I got to see them and hear them for the first time only a couple of weeks ago.

And I think that is a testament to the importance of arts education in our schools. The way that they became this very tight choral organization, how they used arts to not only learn how to perform but also to perform better at school. They're actually almost all of them honor students.

These are kids that unfortunately

could not be here with us today, but I wanted to make sure that I stood up and I said that I congratulate them, that I wish them nothing but success, and to remind everyone that it is for programs like this that we are fighting for. Not only do they get to sing and perform, but they get to use the arts as one of the tools to become better students and better people.

I also want to make sure that I congratulate their parents and the teachers there, particularly the choir director, Lisa Gwasda. And she is an amazing performer as well.

So I would ask my colleagues to join me in celebrating this victory for them and a victory for New York City.

Thank you so much, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Rivera.

Any other Senator wishing to be heard?

The question therefore 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 Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe there is a resolution at the desk by Senator Fuschillo, Number 591. He would ask that you read it, please, in its entirety, and then call on Senator Fuschillo.

ACTING PRESIDENT GRIFFO: The Secretary will read.

I'd ask that we have order in the chamber, please. Order in the chamber, please.

The Secretary will read.

THE SECRETARY: By Senator Fuschillo, Legislative Resolution Number 591, mourning the untimely death of Nassau County Police Officer Michael J. Califano on February 4, 2011.

"WHEREAS, It is the sense of this

Legislative Body to convey its grateful appreciation and heartfelt regret in recognition of the loss of a courageous police officer who dedicated his purposeful life and career in faithful service to his family and to the residents of Nassau County; and

"WHEREAS, It is with profound sadness that this Legislative Body records the passing of Nassau County Police Officer Michael J. Califano, who made the ultimate sacrifice on February 4, 2011, while faithfully executing his responsibilities, serving with dedication, loyalty, and compassion, and who devoted his purposeful life and career to serve and protect; and

"WHEREAS, Nassau County Police Officer Michael J. Califano exemplified what it truly means to give of himself in providing vital police services in keeping with the noble mission of the Nassau County Police Department; and

"WHEREAS, Officer Michael Califano, a 44-year-old respondent of Wantagh and a 12-year veteran of the department, died in the line of duty on February 4, 2011. He was a

highway patrolman and the first Nassau County police officer to die in the line of duty since 1993; and

"WHEREAS, Growing up in North Massapequa, and graduating from St. John the Baptist High School in West Islip, Michael Califano earned his associate degree in criminal justice from Nassau Community College; and

"WHEREAS, Joining the Nassau County Correction Department in 1988, Officer Michael Califano worked at the county jail in East Meadow, then joined the police department in 1998 and was appointed to the First Precinct. He moved to the Highway Patrol squad in 2008; and

"WHEREAS, A great family man who was well-loved, Officer Michael Califano is survived by his wife, Jacqueline, and their three children, Michael, Christopher and Andrew; parents, Catherine and Michael; brothers, Edward and Charles; and sisters, Karen and Donna; and

"WHEREAS, Armed with a humanistic spirit, imbued with a sense of compassion, and

comforted by a loving family, Nassau County Police Officer Michael J. Califano leaves behind a legacy which will long endure the passage of time and will remain as a comforting memory to all he served and befriended. He will be deeply missed and truly merits the grateful tribute of this Legislative Body; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the untimely death of Nassau County Police Officer Michael J. Califano, noting the significance of his contributions on behalf of the citizens of this noble Empire State, and expressing its deepest condolences to his family; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the family of Officer Michael J. Califano."

ACTING PRESIDENT GRIFFO: I would ask the chamber to come to silence, please, out of respect for the slain police officer.

And I call upon Senator Fuschillo to speak.

May I have silence in the chamber,

please.

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

And unlike the previous resolutions where we were celebrating individuals' accomplishments, this is certainly a resolution that is extremely sad.

On February 4th of this year, nearly a month ago, Police Officer Michael Califano lost his life while on duty on the Long Island Expressway, pulling over a box truck. A sleepy driver in another truck that was carrying cars, the gentleman fell asleep, crashed right into his car, and Michael Califano was killed instantly.

He leaves behind a wife who he loved dearly, Jackie; his son Michael, 13 years old; his son Chris, 11; and a younger boy named Andrew.

I grew up working with his father, Michael Califano, and he always boasted about his children. And his son was really the apple of the eye of so many not only in his family but throughout the community.

I attended the funeral, and this is

the first police officer that died in Nassau County since 1993. And I have to tell you something, it was one of the saddest moments of my life to see thousands and thousands of police officers and individuals in law enforcement throughout New York, throughout New Jersey and Connecticut and from other states that came to really celebrate the life of Michael Califano.

The resolution says it all. He was a great individual. He comes from a great family. And we lost somebody that really this community loves. And his loss is not only to his family in Nassau County, but to the entire State of New York.

And thank you very much, Mr. President, for having the resolution read on the floor.

ACTING PRESIDENT GRIFFO: Thank you, Senator Fuschillo.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, could I ask the members to please stand in a moment of silence in honor of Officer Califano, please.

ACTING PRESIDENT GRIFFO: All members please rise in a moment of silent reflection in honor of Officer Michael Califano.

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

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe Senator Fuschillo has another resolution at the desk. But he's only requiring that we read its title and go to its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator

Fuschillo, legislative resolution commemorating the 114th Birthday of the Chatterton PTA, to be observed at its 2011 Founders Day Celebration.

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 Libous.

SENATOR LIBOUS: Mr. President, thank you.

At this time I now hand up the following committee assignments and ask that such assignments be filed in the Journal.

ACTING PRESIDENT GRIFFO: So ordered. The assignments will be so filed in the Journal.

SENATOR LIBOUS: Thank you, Mr. President.

At this time there will be an

immediate meeting of the Finance Committee, followed by an immediate meeting of the Rules Committee in Room 332.

So at this time, Mr. President, I ask that the Senate stand at ease.

ACTING PRESIDENT GRIFFO: There will be an immediate meeting of the Senate Finance Committee, followed by an immediate meeting of the Senate Rules Committee in Room 332.

And the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:56 p.m.)

(Whereupon, the Senate reconvened at 4:36 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

May we please return to reports of standing committees. I believe there is a report of the Rules Committee at the desk, and may we please have it read.

ACTING PRESIDENT GRIFFO: The

Secretary will read.

THE SECRETARY: Senator Skelos, from the Committee on Rules, reports the following bills:

Senate Print 3143A, by Senator Grisanti, an act to amend the Education Law;

And Senate Print 3501B, by Senator Flanagan, an act to amend the Education Law.

Both bills ordered direct to third reading.

SENATOR LIBOUS: Mr. President, I 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 Libous.

SENATOR LIBOUS: Thank you, Mr. President.

At this time may we please have the reading of the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 6, by Senator Dilan, Senate Print 1369, an act to amend the Highway Law.

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, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 7, by Senator Diaz, Senate Print 331, an act to amend the Elder Law.

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, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 95, by Senator Lanza --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

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

SENATOR LIBOUS: Thank you, Mr. President.

Can we please take up the reading of the noncontroversial supplemental calendar. It will be Calendar Number 145, please, by Senator Flanagan.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 145, by Senator Flanagan, Senate Print 3501B, an act to amend the Education Law.

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.)

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

Senator Libous.

SENATOR LIBOUS: Mr. President, we're going to go back to the regular calendar and we're going to read the controversial calendar, please.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 95, by Senator Lanza, Senate Print 3090, an act to amend the Real Property Tax Law.

SENATOR LIZ KRUEGER: Explanation.

ACTING PRESIDENT GRIFFO: Explanation requested by Senator Krueger.

Senator Lanza.

SENATOR LANZA: This extends the deadline for application for tax abatements for the industrial and commercial construction work in New York City.

ACTING PRESIDENT GRIFFO: Thank you, Senator Lanza.

SENATOR LIZ KRUEGER: Thank you, Mr. President. If the sponsor would please yield.

ACTING PRESIDENT GRIFFO: Senator Lanza, do you yield?

SENATOR LANZA: Of course.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

What is the cost of this program, the ICAP program?

SENATOR LANZA: Well, it depends on your point of view. This is a tax abatement that would assist in construction that would arguably contribute to the tax base of the City of New York.

SENATOR LIZ KRUEGER: If, through you, the sponsor would continue to yield, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Lanza, do you continue to yield?

SENATOR LANZA: Yes.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you.

Well, when we passed in 2008, which sunsetted the ICIP program and made it the ICAP program and made some changes, there was an estimated cost of $625 million. And now this bill would extend time periods within this program and make some other change.

So do you agree or disagree that it would cost more or less than the original 2008 bill?

ACTING PRESIDENT GRIFFO: Again, Senator, it would depend upon your point of view. You and I have a difference of opinion from that perspective.

I believe that the City of New York would see a significant gain in tax revenue as a result of the passage of this bill into law. So from my perspective, there would not only be no cost here, but there would be revenue provided to the City of New York.

SENATOR LIZ KRUEGER: Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR LIZ KRUEGER: Thank you. I want to thank the sponsor for his explanation.

And I want to say that he's correct, that there is sometimes a difference of opinion about whether a bill that exempts people from paying taxes is a cost or not a cost.

For this record, this does not cost the State of New York any money, this would only be the giving up of collection of taxes by the City of New York.

But in fact this program does have a history of actually costing the City of New York quite a bit. The last time there was a serious look at this program was when we were moving to sunset ICIP in 2008. And I voted against creating a new program, but it was created.

But at that time studies were done that showed that the City of New York over the

25-year term of the ICIP subsidy program lost $1.1 billion in tax revenue, and it found that the vast majority of the tax incentives had gone to projects in the city that the city itself determined would have happened anyway.

So again, the question of whether a tax subsidy or a tax exemption creates new activity with new revenues or doesn't is really in the details of whether that program has proven successful or not.

So in fact, based on the old model -- which is different, ICIP versus ICAP -- of the $3.4 billion awarded through the ICIP program during the period of time studied, 25 years, $2.8 billion of the $3.4 billion was lost in revenue and I don't believe was justified.

At the time I argued that this was not a good economic development model and that the City of New York, even though it's their right to ask us to allow them to exempt some people from paying taxes, that the City of New York wasn't in a position to continue a program that lost it taxpayer dollars that then they didn't have for other programs.

I think it's particularly relevant to ask that same question today. We are talking about cutting a large number of programs out of the state budget. The City of New York has submitted their proposed executive budget. They're talking about closing daycare centers, closing senior centers, ending fundamental social services programs. In fact, they're talking about laying off teachers.

I would argue that at this moment in time, even if the mayor of the City of New York has said "Let me continue this program," this isn't the right time for him to ask us to expand and continue a program that loses the city tax money when they are telling us they don't have enough money to run crucial fundamental programs. And in fact, they are both saying they're laying off teachers, closing senior centers, closing daycare centers, but they are coming to us for additional money because they don't have enough tax revenue to pay for their programs.

I have to say it again. You have to make decisions about what you cut, what you

collect revenue on, and when you decide some people don't have to pay their taxes. And at this point in history, given the history and the record of not-success of these programs such as ICIP, this is the wrong time for the State of New York actually give permission to the City of New York to give up tax revenue, forcing them into a situation where, yes, they might have to close senior centers, daycare centers, and lay off teachers.

I would urge that we not vote to continue or expand upon this program today. I would argue that everyone should vote no.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Lanza.

SENATOR LANZA: Thank you, Mr. President. On the bill.

ACTING PRESIDENT GRIFFO: Senator Lanza on the bill.

SENATOR LANZA: You know, I listened to my good friend Senator Krueger, and I think her discussion here really points out the difference between our two perspectives and our two philosophies.

Let me point out that this would not be a new tax incentive. This is a program that is currently in effect.

The suggestion by my colleague's discussion would mean that creating a new tax would somehow become a cost to the state. We could say that about any imagined new tax that someone might offer to put into place.

This is a program that exists today. We're saying rather than allow it to sunset, we should continue it. So first, from that perspective, there is no cost to the state because there is no revenue being collected right now.

If we let this sunset, there will be a brand-new tax imposed on the people of the City of New York. That's what would happen. From my perspective, this is the absolute wrong time to enact new taxes.

Over the last two years, we were told that enacting -- and this is another point where we differ -- we were told that enacting $14 billion in new taxes would mean that we would never see the day where we would have to be threatened by teacher layoffs and

civil service layoffs and service cuts across the board. This day was not to come, we were told, as long as we enacted all these new taxes.

Well, a funny thing happened on the way to the forum, which is that by enacting those new taxes, both statewide and in the city, a big chunk of our tax base left the state.

So yes, we have a difference of opinion here. I believe that this is the wrong time to impose new taxes on the people of this state, and that's why I support this bill. I encourage everyone to vote in the affirmative.

ACTING PRESIDENT GRIFFO: Is there any other Senator wishing to be heard?

Seeing none, debate is closed and the Secretary will ring the bell.

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 Parker.

SENATOR PARKER: Mr. President, to explain my vote.

One, I want to thank Senator Lanza for his leadership, particularly on these kind of bread-and-butter issues. It's really important and critical that we deal with this crisis. We're not in a budget crisis, folks, we're in a jobs crisis. We need to create full-time jobs at a living wage with benefits, and we need to do that by spurring our economy.

But this is not the right way, and so I'm voting no on the bill.

You know, Senator Lanza, you know, we're entitled to our own opinions but not our own facts. The last budget cuts did not lead to anybody leaving the state. You know, we may not have done everything that we needed to to get all the funds in, but that's a technical problem. It's not as simple as people leaving the state, which we can't prove scientifically or mathematically.

So I'm voting no because the City

of New York ought to be looking at its corporate welfare programs and drawing some of that money back in and do the things that we need to do to invest in things like education and maintain the fair-share millionaire's tax so that we can have the funds to have programs for people who just need it in this economy. People are looking for jobs and need housing and need healthcare.

So I vote no on this bill.

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

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, thank you. To explain my vote.

I'm also going to oppose the extension of these tax abatements. There are a number of buildings in my district. These are wonderful buildings. They have, you know, beautiful height, 40 and 50 stories and whatever have you. One of them has -- the co-investor in one of them is Magic Johnson. Another one is Jay-Z.

And I don't think that Jay-Z nor Magic Johnson nor any of the people who live

in those buildings receiving tax abatements at our expense are asking for more welfare. They don't need it. So we can cut this off; they will be fine.

We need that money for services. We need money for affordable housing. For all the people who came to talk to me today who are in desperate need of housing, supportive housing, affordable housing, those are the people that we should be looking to help. Not Jay-Z, not Magic Johnson, not all of those millionaires who have recently moved into those beautiful buildings, some of them in my own district.

So I'm voting no on this bill.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 95 are Senators Hassell-Thompson, Huntley, L. Krueger, Montgomery, Parker, Rivera and Serrano. Also Senator Perkins.

Ayes, 52. Nays, 8.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: Senator Libous, that completes the controversial reading of the calendar.

SENATOR LIBOUS: Thank you, Mr. President.

We are now going to go to the controversial reading of the supplemental calendar, Calendar Number 145, please.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 145, by Senator Flanagan, Senate Print 3501B, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

Senator Oppenheimer, do you rise?

SENATOR OPPENHEIMER: Explanation, please, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer asked for an explanation.

Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President. Thank you, Senator

Oppenheimer.

I will endeavor to be as succinct as possible. I don't think this comes as a surprise to anybody what bill that we have before us and what the basic contents of it are. I'm going to speak to it in some detail, and I'm sure there are going to be other people who have comments and thoughts on the subject.

This has to do with education in the City of New York, but frankly I think it has to do with education in the entire State of New York. Because one of the things that's happened -- and I've heard this, and everybody hears this: Well, if you're from the North Country, you can't understand Long Island. If you're from Long Island, you can't understand New York City. If you're from New York City, you can't understand other parts of the state.

I've never believed that. I don't subscribe to that theory. So when we act on legislation that affects various parts of the state, I do so on this bill in my capacity of chairing the Senate Education Committee. That's why I introduced it.

And some of this discussion came up earlier this morning. I didn't think it would be appropriate to have this entered as a Rules bill. It's too serious a subject. It's too important to students and children in the City of New York, it's too important to teachers in the City of New York, and it's too important to the City of New York.

I think it needs a full airing, fair debate, vigorous debate, healthy debate. There will probably be a number of disagreements along the way. But I don't think we don't meet our obligation if we don't start by discussing some of that, whether it be in committee or on the floor.

Having said that, largely what this bill does is what I consider to be a relatively straightforward change in the law. This subject has been commonly referred to as LIFO -- last in, first out. You're the last one hired, you're the first one out if there's a citywide layoff.

We changed the bill, instituted a number of standards and procedures. And we basically say that the paradigm has changed.

Now the basic standard is you cannot simply use seniority as the sole criterion. You can use it, it just can't be the sole criterion. So for those people that say this is repealing seniority as part of the determinations that are made, that's inaccurate.

The first portion of the bill speaks to language that I think is extraordinarily important, because I've listened to all the comments about what this bill is and what it isn't. Section 3 of the bill -- and this is probably the most important language in the entire bill -- "the city school district and its employees' collective bargaining agents shall establish a procedure governing the abolishment or reduction of teaching or supervisory positions citywide" pursuant to this article.

And it goes on to say that seniority cannot be the sole criterion. And it goes on to say beyond that that a person's salary cannot be a factor in the determination as to whether or not a layoff for that individual is going to occur. And it goes on beyond that to say that if you are going to

consider seniority, that it can only be done in a fashion that is the most positive to the employee, not to the employer. If it's going to be viewed, it's got to be done in a positive way.

So there is seniority. There is collective bargaining. There are guarantees that someone will not be thrown out because of salary. And it sets up a process so that everything else that I tell you right after this, if the city and the UFT sit down and negotiate an agreement, that's it. All the other provisions of this bill do not apply. And it gives them time to do that.

And why are we doing this? I think it's important to perhaps recognize some of the issues. I've met a number of times with the mayor's staff, spoken to the mayor, spoken to the chancellor at some length. The City of New York, like all of our school districts and the State of New York, is facing a very difficult budget scenario. Budget deficit, budget crisis, however one may want to describe it. Personally, I think it's a budget crisis not only for the city but for

the State of New York.

Budget crisis for the city because they're talking about the potential loss of 6,000 teaching positions. Now, I've heard all kinds of numbers, as has everybody else. I look at this way. Six thousand positions, 1500 of those purportedly are going to go away through attrition. Okay, I think I can understand that; I think everyone else can basically understand that.

That leaves about 4500 potential layoffs pursuant to a scenario that has been laid out by the mayor and the Department of Education in the mayor's budget that details -- by license area, by community, by school district, by Assembly district, by Senate district -- where exactly this is going to happen.

If you put that on the table for the moment, what the bill goes on to say is if there is not an agreement reached between the city and the UFT -- and I repeat, "if." It says they shall negotiate. But if that negotiation does not bear fruit, we establish nine different categories of people who would

be considered first for layoffs and then establish another layer within that as well.

Those nine categories have to do with a variety of different factors. And I'll use loose descriptions but recite them and then perhaps explain a few in some more detail: An unsatisfactory rating, a 3020-a proceeding, the teacher reserve pool, criminal charges, lateness or absenteeism, investigations, certification, value-added and tenure extension.

Now, I've listened very carefully not only in committee but to my colleagues outside of committee, and have read as many things probably as anyone in this chamber has about some of these categories. There seems to be a fair amount of agreement that if our goal is to make sure that we have the best teachers in the classroom that we have to start to look at issues like this, given the realities that we're facing from a budgetary standpoint.

And I think this type of discussion is a healthy one even if we were flush with cash. Because a lot of people seem to have

talked about this, but the can has not been kicked down the road, or it hasn't moved in a positive way down the road on issues like this.

I understand -- I don't have to agree, but I understand that there are those who will say "I am philosophically opposed to anything that would modify the seniority system." People are going to be entitled to their opinion, and I'm sure they will be strongly held, and I'm not going to quibble with that.

But if you look at these categories, what the structure says is if you can't come to an agreement between the city and the UFT, then you go first to these nine different categories. And then beyond that, if you haven't reached the appropriate layoff number, then you go to the State of New York. You go to the State Department of Education and the Regents, and they have a time frame under which they are supposed to act. So you have city/UFT; if that doesn't work, nine categories; and the Regents.

If the Regents should fail to act,

then it gets kicked back to the City of New York through the Department of Education and the chancellor, and that system will be administered in conjunction with guidelines proposed by the chancellor and administered by principals at the school level.

Now, there are a number of other protections in this bill. And again, I'm going to probably -- if I sound repetitive, it's for a reason. All of these become a moot point if there is an agreement reached between the UFT and the city. And for those -- and I've read some of these memos myself -- this does not get rid of collective bargaining. A simple reading of this bill would underscore that. It says mandatory, "shall bargain." It fosters, it enhances, it promotes. It mandates -- yes, bad word up here, but it mandates collective bargaining.

Now, in some of these categories there are people saying there's no due process, these people are going to be unfairly treated, that this is grossly unfair and it should be a different system. The reality is we're speaking and debating about the bill

that is before us.

Number one category, unsatisfactory rating. There are approximately 2700 people in this category, and over the last five years that number as a percentage basis, even with changes and even with improvements, roughly 2.3 percent of all teachers in the City of New York fall within this category. Meaning over 97 percent fall outside. So while every one of us would like to see every teacher not get a rating like this, the reality is that there are people who get this.

This process was collectively bargained. So I don't buy the concept that it's unfair. If people want to change it, they can collectively bargain it away. But it's not unfair. It was negotiated by the city and the UFT.

And, ladies and gentlemen, I've spent a lot of time reading this stuff; it's exhaustive. You just don't get stamped with a "U" rating. There's a whole procedure that has to be adhered to by principals, by schools, by superintendents, and by the chancellor.

There are 23 different criteria that are part of that review that occurs over the course of a year. So I don't think it's a fair assessment to say that somehow we're just going after a group like this and they're disadvantaged or at an unfair disadvantage. They've been through a process which includes, by the way, a right of appeal.

And in this category we do differentiate, saying that if you've had a "U" rating in the last five years, here's how we would make a qualitative difference. If you've had more than one in the last five years, you're getting considered first. If you've had one that's of more recent vintage, you're going to get considered second.

So if someone says to me, "Well, in the last five years, Year One I got a "U" rating, for the following four years I got a better rating" -- bear in mind, that "U" rating could have been initially been appealed. And again, that was a process that was collectively bargained for.

Number two, 3020-a proceedings. These are people who have been found to have

engaged in improper conduct and there's been a determination made. Not an accusation, not a charge, people who have gone through the process. I think if you went to the average person on the street and you say, "Well, there's roughly 300 people in this category" -- but we say 3020-a. That's the process that you go through to see if someone should be keeping their job, and if they're found guilty one of the sanctions can include removal. Nothing has happened to these folks in terms of interim removal from their positions.

The teacher reserve pool. Fascinating to learn about the teacher reserve pool, because I think of the average taxpayer in terms of what they think and how they would act on this.

Right now the category that would fit in under this bill -- and by the way, these numbers that I'm speaking to are numbers that have been provided by the City of New York. I can attest to their accuracy and to the extent they've been given in good faith by the city laying out who are in these

various categories.

ATR. About 4,000 to 4,500 teachers go through the process every year and get what I would loosely describe as being excessed. Around 3,000 to 3,500 of them tend to get picked up within a relatively short period of time. The people we're talking about here, they've been in the pool longer than six months.

And here's the nifty thing -- I don't like this, and I didn't bargain for it, but it's in there -- they can stay in that pool, they don't have to do anything. They don't even have to apply for a job. They don't have to do anything. They can stay in that pool, they don't even have to apply for a job.

Now, in that group I told you, of the general population it's roughly 2.3 percent of all teachers get an unsatisfactory rating. Well, in this group it's about 10 times higher. So there's about 30 percent of the people in this pool have been rated unsatisfactory.

Criminal charges. Now, these are,

again, determinations made by independent people. This is not me, it's not you, it's not the City Board of Education. And I'm not going to go into detail, but trust me when I tell you that if I read off the list of what these criminal charges are, any one of us, no matter where you live or what your political pedigree, would have a hard time justifying to our constituents and parents why these people continue to hold employment in the public school system where they're dealing directly with children, because it's things like sexual assault, burglary, forgery, all kinds of bad things that the average person would say that person should not be involved.

Lateness or absenteeism. Here's another thing I learned. By the time you get in this pool, somebody has been on you incessantly. You don't get put in this category -- and there's about 200 people; I realize it's not a huge thing -- but you don't get put in that pool unless you have been notified, notified, notified again.

And if you have that kind of problem, frankly I don't want you teaching in

my school either. I don't think it's too much to ask a teacher to get to class on time. If there's a legitimate explanation, you don't end up in this pool.

Certification -- let me go to value-added. That's probably the most significant one.

There is a lot of consternation about how you make determinations on the qualitative value of a teacher and to a degree the quantitative value of their work. And there are those who say we shouldn't be doing this because the State Ed Department, through the Regents, they're going to get that done. Commissioner Steiner says, "We don't need this, we're putting together the system, all of this is going to be moot."

The language in this bill speaks to a value-added model. Okay, what's a value-added model? Well, one thing I can tell you a value-added model is is something that everybody in this house voted for and supported unanimously in last year's Race to the Top legislation. It's the same language.

So do I think the implementation of

that is important? Absolutely. But for any anyone who has concerns, not every member here was here last year, but everybody who was here last year voted for a bill that called for a value-added assessment.

And then the last category is tenure extension. I guess my general point is I, like everybody in this room, I take this work very seriously. I fundamentally believe that there is nothing more important in education than having a good teacher. I said it this morning in the committee. Give me -- if the window's broken, the heat's not working the right way, that is completely secondary to having someone in the front of that classroom who is a craftsman in their trade.

That's what I think we all want, and this is an attempt to try and move that issue in a positive direction in light of the fact that there are serious fiscal constraints facing all entities of government, including the City of New York.

There are repetitious parts of this legislation that keep speaking to salary cannot be the only determination. You can't

be let go because you happen to make a good salary. And if your seniority is going to be part of that determination, it can only be viewed in a favorable light.

There is a bill in the Assembly, Assemblyman Bing has introduced the bill. I can't tell you -- and I'm sure all of you probably know this just as well -- where it's going to go in the Assembly. I daresay it's going to have a little bit more of a challenge than in our house here today.

But this is a very important step forward not only for education in the City of New York, but I think for education in the State of New York.

And I heard it described this morning, this was being described as a political bill. Personally, as the sponsor of the bill, I don't view it that way. I listened to Senator Addabbo, Senator Montgomery, Senator Oppenheimer, a number of my colleagues. We've already made changes in the bill based on concerns and comments raised by a number of different parties, which include the people that we work with on our

side of the aisle.

So when people talked about value-added, we tried to define that more clearly. When people said it shouldn't just be for any criminal charge, we made clarifications in the law so it could be a lot easier to ascertain, to find and identify.

I believe that this is a good bill, and I would ask that everyone, respectfully, support it.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer.

SENATOR OPPENHEIMER: I believe that Senator Flanagan believes that this is a good bill.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer, are you on the bill?

SENATOR OPPENHEIMER: Yes.

ACTING PRESIDENT GRIFFO: Senator Oppenheimer on the bill.

SENATOR OPPENHEIMER: I just will speak on the bill.

Though I did have some questions, such as couldn't the City of New York and the unions achieve their goals just as well

without this bill. But let me just speak on the bill, take two minutes to speak on the bill.

Now, there are many people who believe that LIFO is unfair and not based on ability nor effectiveness of teaching. However, seniority and experience are not the culprit. And we had some humorous examples in Education Committee today of would you rather have a one-year surgeon operate on you or a 30-year surgeon, would you rather have a one-year airplane pilot or a 30-year airline pilot serve you.

So I do not think that seniority is the culprit here. And our seniority rules have a very long, century-old tradition. And we did that because teachers should not be fired merely because the principal at the school does not like them, doesn't like their color or their religion or whatever.

But we do need to develop further evaluation criteria. And this bill is appropriate to be on the table. Also, as I mentioned earlier, I agree with many of the nine categories in the bill. I disagree

strongly with the first one. You know, the thought of dismissing a teacher because there's been one poor evaluation in five years, and particularly if it was in the beginning of the evaluation, where the teacher got assistance to improve, that would seem to be grossly unfair.

But I think the most important thing here is process. And process is important and dialogue is important and partnership is important. For example, last year we changed the teacher evaluation system using value-added, with union consent. The first time that they had gone along with that.

And we created four categories for evaluation in a move to support teachers and principals while removing the ineffective ones. And how was that done? It was done through negotiations with teachers, the education community, the SED and Commissioner Steiner.

And by the way, the commissioner will be promulgating rules and regulations around this evaluation, and those rules and regs will come out, we feel, in early June.

So it might be wise to wait until we see what comes out of his study.

I think we should revisit and build on last year's success, because there really is a larger issue. And namely, what if budget constraints require more than just the dismissal of ineffective teachers? So we need to develop fair criteria and negotiate with the teachers, the supervisors, the SED, the Regents, all parties that are a part of this on our way to achieving reform.

We cannot wipe out our civil service protections and rights. We are, as I said earlier, not Wisconsin. I think in New York State we don't want to destroy collective bargaining. I think in our state we should not legislate what we think appropriately should be negotiated with all the concerned parties.

So at this time I will be voting in the negative, but I know we have many more bills to go through before we reach the end.

Thank you.

ACTING PRESIDENT GRIFFO: Thank you, Senator Oppenheimer.

Is there any other Senator wishing to be heard?

Hearing none, debate is closed and the Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

SENATOR BRESLIN: Slow roll call, Mr. President.

ACTING PRESIDENT GRIFFO: Seeing five Senators stand, I ask the Secretary to call the roll slowly.

THE SECRETARY: Senator Adams.

SENATOR ADAMS: No.

THE SECRETARY: Senator Addabbo.

SENATOR ADDABBO: No.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Avella.

SENATOR AVELLA: No.

THE SECRETARY: Senator Ball.

SENATOR BALL: Yes.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Yes.
THE SECRETARY: Senator Breslin.
SENATOR BRESLIN: No.
THE SECRETARY: Senator Carlucci.
SENATOR CARLUCCI: No.
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: Yes.
THE SECRETARY: Senator Diaz.
SENATOR DIAZ: No.
THE SECRETARY: Senator Dilan.
SENATOR DILAN: No.
THE SECRETARY: Senator Duane, excused.
Senator Espaillat.
SENATOR ESPAILLAT: No.
THE SECRETARY: Senator Farley.
SENATOR FARLEY: Aye.
THE SECRETARY: Senator Flanagan.
SENATOR FLANAGAN: Yes.
THE SECRETARY: Senator Fuschillo.
SENATOR FUSCHILLO: Yes.
THE SECRETARY: Senator Gallivan.
SENATOR GALLIVAN: Yes.

THE SECRETARY: Senator Gianaris.
SENATOR GIANARIS: No.
THE SECRETARY: Senator Golden.
SENATOR GOLDEN: Yes.
THE SECRETARY: Senator Griffo.
SENATOR GRIFFO: Yes.
THE SECRETARY: Senator Grisanti.
SENATOR GRISANTI: Yes.
THE SECRETARY: Senator Hannon.
SENATOR HANNON: Yes.
THE SECRETARY: Senator Hassell-Thompson.
SENATOR HASSELL-THOMPSON: No.
THE SECRETARY: Senator Huntley.
SENATOR HUNTLEY: No.
THE SECRETARY: Senator Johnson, excused.
Senator Kennedy.
SENATOR KENNEDY: No.
THE SECRETARY: Senator Klein.
SENATOR KLEIN: Yes.
THE SECRETARY: Senator L. Krueger.
SENATOR LIZ KRUEGER: No.
THE SECRETARY: Senator C.

Kruger.

SENATOR CARL KRUGER: No.

THE SECRETARY: Senator Lanza.

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

SENATOR LANZA: Thank you, Mr. President.

You know, the fiscal crisis we find ourselves in is not the fault of teachers, nor is it the fault of police officers, nor is it the fault of firefighters, nor is it the fault of any of our good civil servants across this state.

That being said, none of us should stand by a system that protects bad teachers or bad civil servants. To the extent that LIFO has done that, we need to fix it.

It would be easy for all of us in this current climate -- which I find to be breathtaking. Once upon a time many of the people that I watched from back home on Staten Island who worked up here in Albany gave the unions more than they ever asked for, and now some of the same people complain that it was a bad deal. We can't -- as we went too far in

one direction, we should not go too far in the other direction.

Let me now talk about where we are today and why we're here. Initially, the request was to get rid of LIFO, period, so that the mayor or the chancellor could fire and lay off whomever they wanted based on whatever reason they decided.

We have a vastly different bill that was described by the chairman of Education here, my good friend Senator Flanagan. We're here because of his efforts and others in this room. And I want to commend him for bringing us to this point.

This is not the end. I believe that we should do precisely what the mayor is asking for, which is to eliminate LIFO to the extent that it protects bad teachers. I think eight of those categories get us there. I believe we should go no further.

Because once we end up with a workforce, a group of teacher who it has been decided are good teachers, then yes, seniority matters. It does make a difference. A good teacher who has been teaching for 10 years is

probably better than the good teacher who has been teaching for 10 minutes.

And so I believe that LIFO does have a place in public service when it comes to our teachers, but not inasmuch as it protects bad teachers. So let's fix it. This does it.

I do want to say and bring up something that I brought up to highlight the fact that seniority matters in the Education Committee.

A piece of paper was put on my desk last night at about 11 o'clock. It pointed out all the projected layoffs in my district in my schools if we did not fix LIFO. And what it said was in all the schools where we have seniority, there would be no layoffs. And in all the schools where there was less seniority, there would be layoffs. And that was supposed to tell me that seniority was not a good thing.

Well, let me tell you that according to that list, all the schools in my district which have the most seniority according to the mayor's standards are the

best schools in my district. Now, that's an oversimplification of why those facts came out that way on that paper. But seniority matters.

So I'm going to vote yes to continue this process down the line. And I've looked into my crystal ball, and it tells me that this is not going to be the bill that becomes law. And we're going to have, we are going to have a law that will make sure that we no longer protect bad teachers -- which, as Senator Flanagan aptly pointed out, represents the very small minority of all the teachers.

And in talking to the many people I've talked to over the month, you know who most wants to do something about bad teachers? Good teachers. Good teachers more than anyone else -- perhaps even more than parents -- want something done about it.

So we must do something. This bill gets us almost there. We've got to continue to work the process. And we all know how Albany works. It is my belief that unless we pass this bill today here in the Senate, we'll never get to the promised land, so I vote aye.

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

The Secretary will continue to call the role slowly.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Yes.

THE SECRETARY: Senator LaValle.

SENATOR LaVALLE: Yes.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Little.

SENATOR LITTLE: Yes.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Yes.

THE SECRETARY: Senator Martins.

SENATOR MARTINS: Yes.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator McDonald.

SENATOR McDONALD: Yes.

THE SECRETARY: Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator O'Mara.

SENATOR O'MARA: Aye.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator Parker.

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

SENATOR PARKER: To explain my vote, Mr. President.

I admire the sentiment behind this bill and I want to congratulate Senator Flanagan for being a leader on educational issues and wanting to see this be done for our kids.

But my rhetorical question is if this was so good, how come we're not looking at it for the entire state? If this was such a good policy to do, then Senator Flanagan should be proposing a bill that actually does this in his district in Long Island and not just in my district in Brooklyn.

But in addition to that -- because I think that the kids in Long Island deserve

as good an education as the kids in Brooklyn. And I think, you know, from Brookhaven to Buffalo, from Bath, New York, right, you know to Harlem, we ought to make sure that all the kids have an opportunity to have the best teachers.

And I want to associate myself with Senator Lanza's comments. That he's right, the teachers do want the bad teachers out. I think we ought to find a way to get there. I don't think that this bill actually gets us there, Mr. President, so I'm going to vote no. Because I really think that we're in a place now where the mayor has created a subjective standard for getting rid of teachers and not really something that we ought to be doing vis-a-vis negotiation.

Last point. We actually addressed this issue last year, ladies and gentlemen. Right? We did this last year in Race to the Top. So there is actually already existing a process to get rid of bad teachers that the union has agreed to. So why we're going back and redoing something we've done again to me is questionable. I'm going to vote no.

But if there's other things that we can come together and agree upon, I'd be happy to vote yes on that the way I voted yes on Race to the Top.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Peralta.

SENATOR PERALTA: No.

THE SECRETARY: Senator Perkins.

SENATOR PERKINS: No.

THE SECRETARY: Senator Ranzenhofer.

SENATOR RANZENHOFER: Yes.

THE SECRETARY: Senator Ritchie.

SENATOR RITCHIE: Yes.

THE SECRETARY: Senator Rivera.

SENATOR RIVERA: Nay.

THE SECRETARY: Senator Robach.

SENATOR ROBACH: Yes.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Yes.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: No.

THE SECRETARY: Senator Savino.
SENATOR SAVINO: No.
THE SECRETARY: Senator Serrano.
SENATOR SERRANO: No.
THE SECRETARY: Senator Seward.
SENATOR SEWARD: Yes.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Squadron.
SENATOR SQUADRON: No.
THE SECRETARY: Senator Stavisky.
ACTING PRESIDENT GRIFFO: Senator Stavisky, to explain her vote.
SENATOR STAVISKY: Very simple, Mr. President. I am one of two teachers in this chamber. I've had the observation reports.
But I know how subjective this grading system is. And I'm not sure that you want to leave it to a principal to give a "U" rating and determine who is going to be fired and who is going to be retained.
I vote no.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: No.

THE SECRETARY: Senator Valesky.

SENATOR VALESKY: Yes.

THE SECRETARY: Senator Young.

SENATOR YOUNG: Yes.

THE SECRETARY: Senator Zeldin.

SENATOR ZELDIN: Yes.

ACTING PRESIDENT GRIFFO: Announce the results.

THE SECRETARY: Ayes, 33. Nays, 27.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, could you lay aside the remainder of the supplemental calendar for the day.

ACTING PRESIDENT GRIFFO: The remainder of the supplemental calendar is laid

aside for the day, which completes the controversial reading of the supplemental calendar, Senator Libous.

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

ACTING PRESIDENT GRIFFO: There is no further business before the desk.

SENATOR LIBOUS: Thank you, Mr. President.

There being no further business, I move that the Senate adjourn until Wednesday, March 2nd, at 3:00 p.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Wednesday, March 2nd, at 3:00 p.m.

(Whereupon, at 5:32 p.m., the Senate adjourned.)