NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:13 p.m.

REGULAR SESSION

SENATOR JOSEPH A. GRIFFO, Acting President

FRANCIS W. PATIENCE, 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: For today's invocation we have the Reverend James Johnson, youth pastor from Valley Bible Baptist Church in Middleburgh.

Reverend?

REVEREND JOHNSON: Let us pray.

Father in heaven, we are thankful for this time we are allowed to gather. Father, we ask that You would just go before us, Father, and just put Your hand in blessing upon this time. Guide the hearts and minds of the folks here. And, God, just keep us safe in all we do.

We ask in Jesus' name. Amen.

ACTING PRESIDENT GRIFFO: Thank you, Reverend.

The reading of the Journal.

THE SECRETARY: In Senate, Monday, April 11, the Senate met pursuant to adjournment. The Journal of Sunday, April 10, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

I'd ask if we could have just some order, please, in the chamber in order to transact the business.

Messages from the Governor.

The Secretary will read.

THE SECRETARY: The Governor returned without executive approval the Senate Bill Number 2803E, Chapter Number 53, Line Veto Number 1 through 22, entitled "An act making appropriations for the support of government: AID TO LOCALITIES BUDGET."

ACTING PRESIDENT GRIFFO: Senator Libous.

SENATOR LIBOUS: Mr. President, I

move to lay the said line items as vetoed by the Governor upon the table.

ACTING PRESIDENT GRIFFO: So ordered.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Griffo, Mr. President, on page 22 I offer the following amendments to Calendar Number 282, Senate Print 4193, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: And one more time, Mr. President, on behalf of Senator Griffo -- Mr. President, there's a lot of

noise in the chamber. I can't hear myself.

ACTING PRESIDENT GRIFFO: I would ask all the chamber to please come to order so that we can hear and transact the business of our distinguished leader who has these important bills.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Griffo, I move the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print 1201A.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time could we move to adopt the Resolution Calendar, with the exception of Resolution Numbers 993, 1136, 1183, 1240 and 1259.

ACTING PRESIDENT GRIFFO: All in favor of adopting the Resolution Calendar, with the exception of Resolutions 993, 1136, 1183, 1240 and 1259, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The Resolution Calendar is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, I believe we can take up Resolution Number 1136, by Senator Krueger. Could we please have its title read, and I believe that Senator Krueger would like to be called upon before it's adopted.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1136, by Senator L. Krueger, memorializing Governor Andrew M. Cuomo to proclaim April 12, 2011, as Equal Pay Day in the State of New York.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you very much.

Today is Equal Pay Day at the national level. And it is only right that New York State also honor and recognize the importance of moving forward to guarantee equal pay regardless of gender here in New York State in all jobs.

It is shocking that in the year 2011 there is still such large wage disparity between women and men working side by side together in equivalent or exact jobs. According to the U.S. Census Bureau, year-round full-time working women in 2009 earned only 77 percent of the earnings of year-round full-time working men, indicating there has been little change or progress in pay equity throughout the decades.

The Lilly Ledbetter Fair Pay Act was signed into federal law amending Title VII of the Civil Rights Act, and we believe that New York must continue to strive to provide leadership in this area. It is no excuse to have a state where young women are told that they can do everything men can do, that they are equal under the law, that they have the same opportunities and rights in our state,

yet only to learn when they move into the workforce that they are likely to lose $713,000 over a 40-year period compared to their male colleagues.

This is not acceptable. There are any number of bills that we could and should pass through both houses and work with the Governor side by side to pass into law. And today I hope that through this resolution -- that I'm encouraging everyone to be a signatory on -- that we start to realize the importance of this issue and the fact that we're actually falling behind, that the State of New York, the great State of New York, often a leader in almost every issue for the other 49 states, has fallen behind many of our colleague states in guaranteeing that there is pay equity for all.

And so this resolution memorializes Governor Andrew Cuomo to proclaim April 12, 2011, as the Equal Pay Day of the State of New York, recognizing the full value of women's skills and significant contributions to the labor force, and to further encourage businesses to conduct internal pay evaluations

to ensure that they are treating women equally and paying them equally with their male colleagues.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

Senator Stewart-Cousins on the resolution.

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

I just rise to commend my colleague for bringing this to our attention again. We would think that New York would be leaders in women's equality.

And I stand, frankly, because I have three students who are shadowing me from the League of Women Voters, three women who -- three young women who are here. And this is one of those places where women and men actually do get paid equally. And so it's good that you are here.

But it's also good that you're here to understand that we still have things to do and your involvement in government, your vigilance about what we as New Yorkers can

project as the ideal, is extremely important.

So I welcome you and again commend Senator Krueger for letting us know as a state that we have work to do to make sure that women do not make 77 percent of what men make. We contribute all of us so much.

So again thank you, Senator Krueger.

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

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, the sponsor has requested that the resolution be open for cosponsorship. Without objection?

SENATOR LIBOUS: Without objection, Mr. President.

ACTING PRESIDENT GRIFFO: The resolution will be offered to cosponsorship.

If you do not want to be a cosponsor, please notify the desk.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe Resolution Number 993, by Senator Huntley, is at the desk. She would ask that you read it in its entirety, and I believe you should call on the Senator before it's adopted.

ACTING PRESIDENT GRIFFO: The previous resolution is adopted, and now we call upon the Secretary to read.

THE SECRETARY: Legislative Resolution Number 993, by Senator Huntley, paying tribute to the life and accomplishments of Thomas White, Jr., distinguished citizen and devoted member of his community.

"WHEREAS, It is the custom of this Legislative Body to pay tribute to the citizens of the State of New York whose lifework and civic endeavor serve to enhance the quality of life in their communities and the great State of New York; and

"WHEREAS, A resident of Rochdale Village in Queens, New York City Councilman

Thomas White, Jr., died on August 27, 2010, at the age of 71; and

"WHEREAS, A native son of Southeast Queens, born on August 21, 1939, Thomas White, Jr., fought hard for the residents of South Jamaica throughout his lifetime. His illustrious career and service exemplifies the values of all who dream to make life better for themselves and those around them; and

"WHEREAS, Councilman White was an advocate for the Southeast Queens community for over 30 years. He worked tirelessly to develop community-based programs for senior citizens and youth and for crime prevention and drug and alcohol treatment. He also worked with programs to prevent teen pregnancy and to help create primary care programs for those suffering from HIV/AIDS; and

"WHEREAS, As the cofounder and executive director of Queens Village Committee for Mental Health for Jamaica Community Adolescent Program, Inc. (J-CAP), one of the largest and most effective alcohol and substance abuse residential treatment programs in New York State, Thomas White, Jr., helped

to reclaim over 20,000 young men and women who have suffered the effects of abuse, misuse and addiction. His herculean efforts helped young people find positive goals and role models to become valuable and productive assets to the community; and

"WHEREAS, In addition, as the New York City Councilman from the 28th Council District in Queens, Thomas White, Jr., served as chair of the New York City Council's Economic Development Committee. His efforts were instrumental in creating programs that ranged from providing loans to help small businesses stay afloat and grow, to helping New Yorkers avoid foreclosures; and

"WHEREAS, Thomas White, Jr., graduated from Stony Brook University with a master's degree in social work in 1982; and

"WHEREAS, Thomas White, Jr., is survived by his mother, Marie White, two children, Bryan White and Lucile Precious Middleton, and two grandchildren; and

"WHEREAS, Armed with a humanistic spirit, imbued with a sense of compassion, and comforted by a loving family, Thomas White,

Jr., 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; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to pay tribute to the life and accomplishments of Thomas White, Jr., distinguished citizen and devoted member of his community; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of Thomas White, Jr."

ACTING PRESIDENT GRIFFO: Senator Huntley.

SENATOR HUNTLEY: Thank you, Mr. President.

I would like to first introduce Ms. Diane Gonzalez, who is sitting up (indicating), who is now the executive director of one of the largest drug programs, J-CAP in the County of Queens. She was basically Tom White's protege.

And Tom White did some magnificent things in Queens. He saved many lives of young people of all ethnic groups. He worked

tirelessly to make sure that young people did not turn to drugs. And when they did, he worked tirelessly to get them off of drugs and was very, very successful.

And it was shocking to all of us when he passed away so quickly. It just happened so fast that -- that's one of the reasons I did this resolution, because it was like a lot of us never had a chance basically to say goodbye to him. And I thought he was worthy of that, because he lived in a community that he loved and in a community that loved him.

He was city councilman, but I always called him Tom White the advocate for Southeast Queens. I think he was not -- as political as he wanted to be, I think he was more of an advocate for poor people, for sick people, for people who needed his help.

And it does give me great pleasure today just to say to you that Tom White is missed in our community, Tom White left a great, great legacy. If you're ever in Queens and you go on Baisley Boulevard, you will see this giant, giant rehab center. And if you go

on the other area of Sutphin Boulevard, you will see another giant, giant rehab center. And he worked hard at that.

And I just wanted Diane and also Tom's -- the young man who I think was one of Tom's -- he has lots of pictures with Tom -- who Tom looked after and loved, and he's here today also. And I just want to tell you I am so happy that you could come just to hear. And you will get a copy of this resolution.

Thank you.

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, there's a resolution at the desk by Senator Libous, Number 1183. Could we please have the title read and move for its immediate

adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1183, by Senator Libous, memorializing Governor Andrew M. Cuomo to declare April 2011 as Child Abuse Prevention Month in the State of New York.

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, I'd like to open this up for cosponsorship to all of my colleagues. If anybody does not want to be on this resolution, they would let the desk know, please.

ACTING PRESIDENT GRIFFO: So noted. The resolution is open for

cosponsorship. If you choose not to, please indicate by letting the desk know.

Senator Libous.

SENATOR LIBOUS: There's a resolution at the desk by Senator Kennedy, Number 1240. May we have the title read, Senator Kennedy would like to be called upon, and then we'd move for its adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1240, by Senator Kennedy, honoring Police Chief Christine Ziemba upon the occasion of her retirement after 34 years of distinguished service to the Cheektowaga Police Department.

ACTING PRESIDENT GRIFFO: Senator Kennedy.

SENATOR KENNEDY: Thank you, Mr. President.

What a tremendous honor it is to stand here to honor Christine Ziemba. Police Chief Christine Ziemba has led a long and illustrious career fighting to improve public safety in Western New York as a leader within

the Cheektowaga Police Force. When she was hired in 1976, Chief Ziemba became the first female police officer in the Town of Cheektowaga. She recently retired after 34 years of service to the hardworking men and women of Cheektowaga and Western New York.

After joining the force in 1976, Chief Ziemba climbed the ranks. She was promoted to lieutenant in 1985, and the town board named her chief of the Cheektowaga Police in March of 2002 because of her distinguished service.

Chief Christine Ziemba was the first woman to ever serve as a police chief in Western New York, and she was one of only four female police chiefs serving throughout New York State at the time of her retirement.

Chief Christine Ziemba has been a pioneer for women in law enforcement across New York State. Her dream and unrelenting ambition helped pave the way, inspiring more women to join the ranks of law enforcement.

In her official acts, Chief Christine Ziemba worked undercover with the Narcotics Unit. She also served in the

Juvenile Aid Bureau. She reinforced partnerships with other departments and organizations throughout Western New York, throughout Erie County, and throughout New York State. She helped create the Sex Offense Unit, which was at the time the first in the country to have specific officers handle cases throughout the entire investigation process.

Also, in addition to leading the Crime Resistance Unit, Chief Christine Ziemba brought the D.A.R.E. program to all of the towns' schools. She commenced the Citizens' Police Academy. She oversaw the Police Explorers program. She worked with Neighborhood Watch groups. And she actively recruited new officers interested in joining the department.

Chief Ziemba was born in Buffalo, and her family later moved to the Town of Cheektowaga, the largest town in the 58th State Senate district I now represent. She graduated from Maryvale High School and went on to earn her four-year degree in criminal justice at Buffalo State College.

Chief Christine Ziemba has devoted her life to public service. She has demonstrated great courage and diligence in protecting our families and improving the safety of our neighborhoods. That alone makes Chief Ziemba very deserving of this recognition that we honor her with today.

But when you consider the path that she has paved for women in law enforcement, inspiring and encouraging other women to serve and protect, it becomes clear that this recognition is long overdue, and it's the very least we can do to honor and thank Chief Ziemba for her service to this community and to this state.

Chief Christine Ziemba is a courageous public servant, a fighter for public safety, and a trailblazer for the hardworking women of New York State. I am proud and honored to bestow this honor upon her today, and I would ask all of us to recognize Chief Ziemba, who is with us today on the floor with her brother Ron, who is also a 21-year member of the Cheektowaga Police Force, also retired.

Chief Ziemba, thank you very much.

ACTING PRESIDENT GRIFFO: Chief Ziemba, it's an honor to welcome you to the Senate chambers today, and we extend our best wishes to you in your retirement.

(Applause.)

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.

Congratulations again, Chief.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe there's a resolution at the desk by Senator Maziarz, 1259. I would ask that we just read its title and then move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1259, by Senator Maziarz, memorializing Governor Andrew M. Cuomo to proclaim April 23, 2011, as a Day of Remembrance for the Polish Martyrs of the Katyn Forest.

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, earlier today when we adopted the Resolution Calendar, Senator Larkin had Resolution 1303 on it. He would like to open that up for all the members that would like to be on it.

Again, our normal procedure will follow. If members do not want to be on it, please let the desk know.

ACTING PRESIDENT GRIFFO: Thank

you, Senator Libous.

Resolution 1303, by Senator Larkin, is opened up to cosponsorship. If you choose not to be a cosponsor, please indicate at the desk.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time I will call an immediate meeting of the Rules Committee in Room 332, an immediate meeting of the Rules Committee in Room 332.

The Senate will stand at ease.

ACTING PRESIDENT GRIFFO: There's an immediate meeting of the Rules Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:35 p.m.)

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

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator Libous.

SENATOR LIBOUS: Mr. President, let's go to the reading of the

noncontroversial calendar first.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 130, by Senator Dilan, Senate Print 1347, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 153, by Senator L. Krueger, Senate Print 397, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 156, by Senator LaValle, Senate Print 1756, an act in relation to permitting the County of Suffolk.

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, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 157, by Senator Skelos, Senate Print 2131, an act in relation to authorizing the Bay Park Fire District.

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, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 179, by Senator Marcellino, Senate Print --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 203, by Senator Maziarz, Senate Print 219, an act to amend the Banking Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 245, by Senator Grisanti, Senate Print 3919, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 248, by Senator Libous, Senate Print 1071 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number 288, by Senator Ritchie, Senate Print 4144, an act to amend the Agriculture and Markets Law.

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, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 302, by Senator Grisanti, Senate Print 3918, an act to amend Chapter 307 of the Laws of 2005.

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, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LIBOUS: May we have the reading of the controversial calendar, please.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 179, by Senator Marcellino, Senate Print 921, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Senator Krueger.

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

ACTING PRESIDENT GRIFFO: Senator Marcellino, do you yield?

SENATOR MARCELLINO: Yes, I do.

ACTING PRESIDENT GRIFFO: The Senator yields, Senator Krueger.

SENATOR KRUEGER: Thank you so much.

Senator Marcellino, I believe that this bill came up a few years ago. Is this the same bill that you sponsored at that time?

SENATOR MARCELLINO: Yes, it is.

SENATOR KRUEGER: Thank you. And, Senator, my reading of the bill is that if a --

ACTING PRESIDENT GRIFFO: Senator Krueger, are you asking Senator Marcellino to continue to yield?

SENATOR KRUEGER: Excuse me, Mr. President. I am asking him to yield.

ACTING PRESIDENT GRIFFO: Senator Marcellino, do you yield?

SENATOR MARCELLINO: I will. And if it will expedite the process, I will yield to a series of questions from the Senator.

SENATOR KRUEGER: Thank you so much. Again, once we get the rhythm going, Mr. President, I love to go back and forth this way.

SENATOR MARCELLINO: I believe in rhythm.

SENATOR KRUEGER: So my understanding of the bill is if a student is suspended in one school district and then transfers, the suspension would have to be upheld in the new school.

So what would happen when a pupil, a student who has been suspended moves to a new district during the course of the suspension? How long are they supposed to

stay suspended? What kind of process could be used to resolve the issue in the new school district?

SENATOR MARCELLINO: Well, let me correct a misconception on your part. The bill is not a mandate. The bill does not require that the school district continue the suspension from a previous district. It simply gives them the authorization to continue the suspension so that they might get a handle on the situation.

We're not talking about suspensions of three or four days, a typical suspension of a kid who gets into a fight with another kid in a hallway and, you know, they get suspended to calm things down. We're talking about very egregious incidences.

The incident that was brought to my attention by the superintendent was one where guns were brought into the school by a student and used to threaten others. The superintendent suspended him, the family took the kid and moved to a different district in order to game the system and avoid the suspension.

We just don't think that that should be done. I think the new district should have the option on a kid-by-kid basis, a child-by-child basis, to analyze the situation, to take appropriate steps to meet with the family, meet with the kid and resolve the issues and set up a program within the school, either through counseling or a program of classes that the child can be suited for because they're moving in in the middle of a semester, what's missing and so on.

In other words, it gives the district a chance to evaluate the system and evaluate the situation on a child-by-child basis and not to be rushed into a situation which might not be effective for the system, might put people at risk, and it might also negatively impact the child's education.

SENATOR KRUEGER: Thank you, Mr. President. If, through you, the sponsor will continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

So in a hypothetical, there's a

child who lives in New York City and is suspended from their school. They move to your district and they file paperwork to start at that school. How do the two school districts communicate? Does the City of New York have any obligation, under your law, to let the Glen Cove school district know that this child has been suspended? Where does the information flow start and stop?

SENATOR MARCELLINO: Well, I don't live in Glen Cove, I live in Syosset.

SENATOR KRUEGER: Oh, I'm sorry.

SENATOR MARCELLINO: But Glen Cove is a very good school district and works very well.

But the district could communicate. I don't think there's a mandate that requires them to.

SENATOR KRUEGER: Mr. President, if the sponsor would continue to yield.

SENATOR MARCELLINO: Sure.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Is it your understanding that school districts are

entitled to respond to questions and answers from each other about the status of students or the suspension? Is there any other law that would need to change that would mandate New York City to provide said documentation to another school district who asked for it?

SENATOR MARCELLINO: I don't think I'd be in favor of mandating anything on that level.

But I would think that it would be in the best interests of the child if information was passed on and if there was a situation of safety, safety of staff and safety of other children in the district in which child is moving into that, that information should be passed along so proper precautions can be taken into consideration.

All we're looking at is trying to, one, do what's in the best interests of the district that is the receiving district, and, two, do what's in the best interests of the child. So that the child coming in is given the appropriate attention and direction that it needs to move forward in its educational career.

SENATOR KRUEGER: Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: I'm going to lay out the hypothetical again, because I know you were answering but I didn't quite understand, so I apologize.

So student Chris is subpoenaed from a New York City school. The family moves to Syosset. Chris goes to start school at Syosset. How does Syosset know that in a previous school district Chris was suspended, for what reason, for how long a period?

SENATOR MARCELLINO: It would be my understanding that it wouldn't unless they were told. Or unless this became such a high-profile situation that they heard it coming.

SENATOR KRUEGER: Through you, Mr. President, if the sponsor would continue to yield.

SENATOR MARCELLINO: Sure.

ACTING PRESIDENT GRIFFO: The sponsor continues to yield.

SENATOR KRUEGER: Thank you.

So I agree with you, if a student has severe problems, a new district wants to know about them, wants to have a conversation with the family, wants to potentially do an individual educational evaluation of the student, figure out what special services they might need, what special issues the school might face.

But it's not at all clear to me why there would ever be a circumstance where a family, knowing their child had problems in a previous school district -- i.e., a suspension -- would come to the new school district and say, "Ah, yes, he's under suspension."

So even in the example you originally raised, I just don't understand where this would ever come up.

SENATOR MARCELLINO: Number one, this is not retroactive. The suspension would still have to be in effect. In other words, the child could not have been suspended in the City of New York, served the suspension, and then moved to another district two months

later and the district would have the option to reimpose the suspension. We're not talking about that.

What we're talking about is where the suspension is still in the case and still in vogue and still in fact, that the child moves over.

And it would be, frankly, in the best interests of the parents, I would think. The parent would want that new district to understand something and to deal with their child appropriately and provide the appropriate situation where the child is given the proper classwork, the proper classes, the proper counseling, so that this incident doesn't get repeated and frankly doesn't get blown out of proportion.

Because in some cases, things do. Rumors start and things get carried away. The old telephone game, where you tell somebody at one end and by the time it gets to the other end it's totally different, you don't even recognize the story that you started with.

One would think the parents would want that kind of attention applied to the

child so that the child can get, as I said several times -- and I don't mean to be repetitious, but I will because it's important -- that the child will get the best attention and the best services that it should and not be just tossed into another situation and have the thing repeat itself.

SENATOR KRUEGER: Mr. President, on the bill.

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: I want to thank the sponsor for taking the time to try to explain to me his argument for the bill.

And I'd like to explain briefly why I cannot vote for this bill.

We have a very high rate of suspensions in some parts of the state. For different age groups, suspensions can be higher or not. And my concern is if there has been a suspension from school and if in fact a family has moved to a new location -- and I doubt very much they are moving to a new location because their child is suspended, but for many other possible reasons -- I would

hate to think that I voted for a bill that might set up the child to not be able to attend school for some period of time in the new location where in fact -- and in fact might be -- the parents might be discouraged from coming to the school and saying "My child Chris is a wonderful child who has A, B, C issues, and I really want us to work on them together."

Because I don't want parents to be afraid to talk to the school or the school system about their child and any special needs they might have. And I think it's important for parents to be able to be up-front about their concerns about their own child. And I know that the schools want to know as much as possible.

And I just see this situation potentially being a setup where, because something happened at X time in X location, that a child might face increased penalties and almost the beginning of a stigma against them in a new location and a new school where the parents can't do what they believe is in the best interests of the child, and in fact

the school might likely never find out the information they need to have to make the right decisions.

So I do believe that the sponsor is well-intentioned with the piece of legislation. I heard him just talk about the importance of wanting to make sure that schools have the information they need to make good decisions on behalf of the children who attend their schools.

I'm just afraid that this would likely translate either into a bill that has no impact because nobody's going to volunteer this information one way or the other, you can't mandate it between school systems, and it may force parents to hide information that is not in the best interests of their child or the new school system.

So I will be voting no. Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, just a point that I did not make before.

The child, if moved to a different district, would still get an appeal in that second district, get a second bite at the apple as far as an appeal to the original suspension. So they would have the appeal in the first district and then, if they moved to the other one and they chose -- again, it's an option -- if they chose to keep the suspension in place -- not add to it, but keep the suspension in place for its original duration -- there would be a second appeal available to the parent and the child on that case as well.

So we're buying time here for the kid, we're buying time for safety of both staff and other children and the child involved themselves. We don't want to have the child come into a situation where they're just tossed into the arena without any services, without the appropriate help.

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

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

I'm sorry, Senator

Hassell-Thompson. Senator Hassell-Thompson.

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

ACTING PRESIDENT GRIFFO: On the bill?

SENATOR HASSELL-THOMPSON: On the bill.

ACTING PRESIDENT GRIFFO: Senator Hassell-Thompson on the bill.

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

I did not -- I chose not to ask questions because I remember having asked several of these questions of Senator Marcellino before when he passed the bill.

But I just needed to reemphasize some of the points that I heard Senator Krueger make. And that is with the high number of students who are being suspended, many times when children move to a different school district it is really because of neighborhood and a lot of other environmental things that parents want to take their children out of a particular environment.

And suspensions -- I've had a lot

of experience, particularly with my home school district in terms of the numbers of the students that were suspended. When we began to look at the numbers and talked about the numbers of young people who were being suspended and what was the correlation between that number and the number that ultimately dropped out of school, we were finding that children who dropped out were those who had had a series of suspensions.

And so one of the things I'm always afraid that if we give authority -- because you used the word it now gives the authority. Sometimes giving authority is almost like saying you're off the hook and whatever you choose to do with this youngster is absolutely okay.

We don't need more of our children to be suspended. What we need to be doing is looking at, as we have done -- we put money into the Rochester School District, we put money into a couple of Westchester school districts to look at and to devise programs to look at why youngsters are being suspended and create support systems that allow them to not

only not continually be out of school but actually like being in school.

Which is not something that most young people who get into trouble do. You'll find that the base of their issues has everything to do with not wanting to be there because they're not being successful, and so they drop way behind other students. And you may think that three or four days doesn't make a difference, but it does. Particularly for a lot of the students who are marginal, any days that they lose from school is more than they should lose.

So I have to continue to say to you, Senator Marcellino, I hear the concern that you have, but I will continue to vote no on this bill. Thank you.

Thank you, Mr. President.

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

Debate is closed. Debate is closed. The bell has rung. And it will continue to ring.

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Montgomery to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President. I'm very sensitive to what Senator Marcellino intends for this bill to do, but very often one person's medicine is another person's poison. And we have to be very, very careful about how we so liberally and easily suspend young people and maintain these suspensions and punish them and figure out as many ways as we can to eliminate them from being part of a school system.

And so I'm going to continue to oppose this legislation, and hopefully we can come up with a better way of trying to figure out what to do with young people who are in trouble in our schools.

Thank you, Mr. President. I vote no.

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

Senator Adams to explain his vote.

SENATOR ADAMS: Thank you, Mr. President.

I'm going to vote yes on this bill. I'm concerned about uncontrolled suspension of young people, but there's a greater concern that I have, and that's disruption in the classroom.

And there are children who are -- haven't reached a point that they are able to be in an environment where a group of young people are attempting to learn. And so if a child reached a level that they should be suspended, we need to be careful to make sure that's fair, but at the same time my concern is for the larger number of students in the classroom who are attempting to receive a quality education.

And too often one or two children disrupt an entire classroom. And I don't think we can continue to just turn our back and pretend as though some children need to learn how to be in a proper classroom environment.

So I'm going to vote yes on this

bill, and I hope we continue to make sure that we educate all our children. But at the same time we've got to look for the greater good for the overwhelming number of children that sit in the classroom every day and hope to receive some form of education, and my son is one of them. And I believe that he should receive a fair education without having to be disrupted, and so I'm going to vote aye on this bill.

ACTING PRESIDENT GRIFFO: Senator Adams will be recorded in the affirmative on this bill.

Senator Savino to explain her vote.

SENATOR SAVINO: Thank you, Mr. President.

I also rise in support of this legislation. However, I do understand and I recognize the concerns that have been raised by Senator Krueger, Senator Montgomery, and Senator Hassell-Thompson. They're absolutely correct in the concerns that they have.

But at the same time, I, like Senator Adams and Senator Marcellino, also take the position that discipline of children

in our schools should be two things. One, it should be constructive and it should also -- it should be progressive first and constructive and instructive.

And what we want to prevent here is we want to prevent the possibility of a parent not understanding that their child needs more intervention. And when that child is issued a suspension, which is a very high penalty in school, that they not then take that child and move them to another school district to avoid that penalty.

We need parents to be engaged in their child's school life. We need parents to help deal with whatever that crisis was in that child's life or that problem behavior that led to that suspension.

That's why I supported this legislation the previous times it came before the Senate. And when I met with the School Administrators Association, that's their concern. They want to make sure that these kids are not moved from school to school to avoid the consequences of their behavior. Because that is what a suspension should be.

It should be the worst type of penalty that's issued to a child, but in an effort to get them to understand that there are consequences to their behavior.

Moving them to another school district without having the ability of that new school district to impose those consequences isn't going to be instructive to that child. So in the end, we still want discipline to be instructive and progressive.

Thank you, Mr. President.

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

Senator Stewart-Cousins to explain her vote.

SENATOR STEWART-COUSINS: Yes, thank you, Mr. President.

I had voted, frankly, for this before. And just recently however, I heard statistics that have really left an impression on me. Since No Child Left Behind, it seems that there is an extraordinary growth in the amount of suspensions, especially among black and Latino children. And so it really has grown to, I think, almost an epidemic

proportion in some places.

Should a child have an opportunity to start anew, I think that's a good thing. I think that a child who is disruptive and has real issues, they will, yes, go into a new school district, but I'm sure that there is a process, just as there was in the old school district, to deal with that child.

So I'm all for giving the child an opportunity to get a fresh start, especially, again, in light of the statistics of the growth in suspensions since No Child Left Behind. So I'll be voting in the negative.

ACTING PRESIDENT GRIFFO: Senator Stewart-Cousins to be recorded in the negative.

Is there any other Senator wishing to explain their vote?

Announce the results.

THE SECRETARY: In relation to Calendar Number 179, those recorded in the negative are Senators Espaillat, Hassell-Thompson, Huntley, L. Krueger, Montgomery, Parker, Perkins, Rivera, Serrano and Stewart-Cousins.

Ayes, 46. Nays, 10.

ACTING PRESIDENT GRIFFO: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 248, by Senator Libous, Senate Print 1071 --

SENATOR DILAN: Explanation.

ACTING PRESIDENT GRIFFO: Senator Dilan has requested an explanation, Senator Libous.

SENATOR LIBOUS: Mr. President, this is the bill that I've had before this house on a couple of occasions. It's the Dedicated Highway Bridge and Trust Fund bill. As I like to say and as I have said on this floor, it puts the trust back in the fund.

As many of you know, right now the Dedicated Highway Trust Fund gets raided every year. It gets raided for snow and ice removal, it gets raided for the operation of the Department of Motor Vehicles.

When the fund was set up in the '90s, its intent was to be a dedicated highway and bridge trust fund. And unfortunately,

over time, the trust had come out of the fund. And what I'm trying to do -- and as my colleagues have joined me in the past, I believe this bill has passed almost unanimously in the past -- is to put the trust back in the fund.

Right now the money that comes out of the fund goes to the areas that I mentioned. What this bill would do is take over a period of five years so that the money in the fund would go to what it's supposed to be used for -- not snow and ice removal, but to repair bridges and roads in all of the State of New York.

So, Mr. President, this bill comes before the body as it has in the past. It's passed this house on a number of occasions. For whatever reason, it doesn't seem to pick up any momento -- momentum. Maybe the bill is a momento -- but it doesn't pick up any momentum in the Assembly.

ACTING PRESIDENT GRIFFO: Senator Dilan.

SENATOR DILAN: Yes. First I'd first like to thank Senator Libous for

sponsoring this bill and bringing it forward and recognizing that there is a problem with the Dedicated Highway Trust Fund and really bringing it to light.

The Dedicated Highway and Bridge Trust Fund was created in 1991, like Senator Libous indicated. It was meant to be a pay-as-you-go funding stream for construction and rehabilitation of state roads and bridges.

At the time, then Governor Mario Cuomo, in his approval message, stated that "This is a reliable, predictable stream of revenues which will allow us to provide for an orderly development and management of transportation programs and projects without reliance upon periodic bond issues."

So I would like to know if Senator Libous would respond to several questions.

ACTING PRESIDENT GRIFFO: Senator Libous, would you yield for a series of questions?

SENATOR LIBOUS: Mr. President, I would be pleased to yield to my friend Senator Dilan.

ACTING PRESIDENT GRIFFO: Senator

Dilan.

SENATOR DILAN: And also I would like to say that we all have voted for this bill at one time or another in the past. However, I was enlightened a little bit in the past two years, as chair of the Transportation Committee, and found out a little more about this fund and the problems that it does have now.

So how does this legislation before us today help bring us back to the clearly stated intended goal of the fund, of "pay as you go"? Does it do that?

SENATOR LIBOUS: Thank you, Mr. President. Senator Dilan asked a very good question.

Senator, what it allows us to do is over a phaseout period of five years to replace the fund at an amount of I believe it's $137 million a year, to be paid out of the General Fund. And then over a five-year period the fund becomes flush, if you will, and that the taxes and fees that go into the fund will continue to pay for a number of programs, as the Senator mentioned and he's

quite aware of, like the CHIPS program, bonding for roads and bridges and some of the other issues.

But it would be a five-year phaseout. You know, right now, Mr. President -- and I don't have the exact number, I think it might be about $520 million -- but the General Fund actually puts money back into the Dedicated Highway Trust Fund. And what we're trying to do is clean up the fund so that it just goes for roads and bridges.

SENATOR DILAN: Now, as I indicated, in Mario Cuomo's approval message he indicated that it was a pay-as-you-go program and it was to avoid bonding. But as early as 1993, this legislative body provided the authority to bond state highway and bridge projects. And actually the first bond issue was 1974 [sic], and almost every year thereafter for these projects, in order to leverage against the dedicated fund.

This was an 18-year practice that has left the fund unable to pay for critical road and bridge work, as it is now crippled by

the growing debt service. And according to the Division of Budget, 49.2 percent of the revenue of the dedicated fund went towards paying down the debt in fiscal years '08 and '09, and that percentage is estimated to increase to 72.4 percent in as little as two years.

So does this legislation help to alleviate the debt burden faced by the fund?

SENATOR LIBOUS: Mr. President, Senator Dilan is right on the money, sir. He knows his figures. Because he is right, 42 percent of the fund does go to, right now, state operations, and 30 percent of the fund goes to debt service and 29 percent of the fund actually goes to road and bridges.

Now, think about that, my colleagues -- and, Senator, I know because of your background in transportation, you're very much aware of this -- that you have a Dedicated Highway Trust Fund in which 29 percent of the fund goes to roads and bridges. Thirty percent of the fund goes to pick up debt. Because that debt, as Senator Dilan says -- and he's absolutely right -- is

some of the bonding debt, because you cannot fix all of the roads and bridges in New York State without bonding.

And we've had, over the years, several bond issues. And, Mr. President, the Senator is accurate. I think the last bond act, Senator, may be four years ago.

And what happened during that bond act is that they took pieces of projects from every member in this chamber throughout all of this state, and they took it from -- my good friend Senator Rivera had a project, for instance, in his district. And let's say the project was a $10 million project. It would take $2 million of that $10 million from the bond act. But if the DOT fund or the dedicated bridge fund could not supplement the $8 million, then Senator Rivera's bridge would not get fixed. And that's what's happened to the DOT budget probably over the past six to eight years.

So the Senator is right, a portion of this fund does go to bonding. As a matter of fact, to those of us in this chamber, the CHIPS money -- the CHIPS money is bonded

money. Without bonding for CHIPS money, none of our local governments could pave those potholes. That's not cash we take out of the budget, that's actually bonded money that we get from the Dedicated Highway Trust Fund.

So what we're trying to do here -- and the Senator is right, that it's very imbalanced. I'm trying to balance the fund. Recognizing it's going to take five years, I want to take the $655 million that goes for snow and ice removal pre I think it's 2000, Senator, when they used to take it out of the General Fund and put it right in the DOT budget and use snow and ice removal out of the DOT budget and take the I think $200 million for the operation, $200 million for the operation of the Department of Motor Vehicles.

Now, we just passed a budget here. And every Senator -- every other state agency, with the exception of the authorities, of course, the money to run those state agencies comes out of the General Fund. The money to run the Department of Transportation comes out of the Dedicated Highway Trust Fund.

So, Mr. President, I think my

colleague and I are in pretty much agreement here that there is bonding that comes out of here. I'm just trying to balance the fund so at the end of the day, at the end of five years, this fund is used for road and bridge repair.

SENATOR DILAN: You know, I just want to say that I'm not clear if this piece of legislation actually accomplishes any type of fix with respect to the problem that the dedicated fund is having with its debt problem.

Just to be clear, in 2001 this house voted 55 to zero, including 17 members of the current majority and Senator Libous, yourself, on two dedicated fund measures that year. One began the funding of DMV operations and the DOT snow and ice removal out of the dedicated fund. That was the first measure. And the second was the deposit of annual DMV fees, roughly about $169 million, that come from DMV to the fund.

So why were these department operations and revenues transferred to the fund when DMV has always operated as a

revenue-generating agency and a self-sustaining agency? Why was this money moved into the dedicated funds?

SENATOR LIBOUS: Mr. President, is that a question?

SENATOR DILAN: Yes.

SENATOR LIBOUS: Mr. President, Senator Dilan, you're right. Okay?

Now I'll speak for myself. At that time we did that. I'm trying to correct it because it hasn't balanced out, it's been imbalanced. And you're right, I voted for that, because at the time we thought it was the right thing to do to get our roads and bridges fixed. We were given a presentation by the administration at that time, and we believed, like we often do, that at least at that moment it was the right thing to do. And I think it was.

However, I think here we are now in 2011, and I think it's time -- as I have been. And Senator Dilan has worked with me on this over the years, and I know we've had a vigorous debate on this bill. I think this is the fourth time I've brought this bill to the

floor. So I've been trying to correct whatever -- and I'm not going to call it an error, because at the time I think this body felt it was the right thing to do.

But I think right now it is also the right thing to move forward. And since the bridge accident that took place in Senator Little's district -- was it two years ago, Senator? -- and some of the other problems in all of our districts, you go to the dedicated fund and it's broke. And we all know that there is no money. Right now the DOT budget is $8 billion. Half of that goes to the MTA, half of that goes to operating and capital costs. And all I'm trying to do here, Senator, is clean it up.

So I don't disagree with you, you know, on what was done in 2001, I think you said it was. I voted whatever I voted for. But I just think that this is 2011, and I think we always have to be progressive. I think we have to look at the times. And we always have to maybe do better -- I didn't say I was a progressive, Senator, I said we have to be progressive and look at the times and do

better than we did in 2001. And I think that this bill would do that.

SENATOR DILAN: I would just like to comment and then one more question.

ACTING PRESIDENT GRIFFO: Senator Dilan, are you on the bill now or are you still going to continue to question?

SENATOR DILAN: Well, I'll ask a question.

With this legislation you're proposing to stop DMV operations and DOT snow and ice removal, the funds that come out of the -- to stop that practice. So how -- and also, at the same time, have the $169 million coming out of DMV still going to the trust fund.

So how would we then fund DMV and also fund the ice and snow removal?

SENATOR LIBOUS: Mr. President, the Senator raises a good question. That's my five-year phaseout. Because as you do a five-year phaseout, the funding would then come from the General Fund, just like every other state agency, just like snow and ice used to come from that.

And certainly I would be open, Senator, to be flexible on the DMV fees. Because one could argue, as I think you are, that the DMV fees should pay for the operation of the DMV. Mr. President, I'm a flexible guy. I would be open to doing that as long as we could clean up the Dedicated Highway Trust Fund. I would be more than happy to work with Senator Dilan on cleaning that up. But I would like to move the bill forward today so that maybe we could get some attention in the Assembly.

SENATOR DILAN: On the bill.

ACTING PRESIDENT GRIFFO: Senator Dilan on the bill.

SENATOR DILAN: I look forward to working with Senator Libous and anyone else in this house to recognize the problem that this fund is definitely having. It's going to get to a point where we're not going to have the ability to fund any capital project with respect to DOT or highways and bridges in the State of New York if this practice continues.

So I look forward to working with Senator Libous to ensure that the Assembly

recognizes the problem that we have here and definitely fixing this fund. So with that said, I will be voting for the bill.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Little.

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

ACTING PRESIDENT GRIFFO: Senator Little on the bill.

SENATOR LITTLE: Thank you.

I'd like to thank Senator Libous for putting forward this bill and thank all of you that will sponsor and support this bill.

In my district, October 16th of 2009, I got a call that a major bridge between Vermont and New York, the Crown Point Bridge, was being closed. We all knew the Crown Point Bridge needed repair and had been subject to several inspections. But an inspection the day before they closed it showed that the bridge was really in need of repair and about to fail.

Fortunately, no one was injured and we didn't have a total failure of the bridge,

but -- or it didn't fall down with cars on it. But just imagine the disruption to the lives of the people in that district. The detour, mind you, was over 100 miles for people who lived in Crown Point and worked in Vermont, attended a hospital for healthcare in Vermont, or went over to Vermont for education and vice versa. So there was a tremendous disruption.

Fortunately, the bridge was blown up and is now being replaced by a really beautiful bridge that will have bike lanes and sidewalks, something that all of New York State will be proud of.

But the point to be made is that we are an older state and many of our roads and bridges have been in existence for a long time. We have found that many of the bridges in New York State are in need of repair and, on the scale that they measure them on, are in a scale which shows that they need attention.

So any way that we can get more of this dedicated highway fund to go for what it is needed for -- for improving infrastructure, for repairing bridges, and for seeing that we

don't have a disaster with one of our bridges and a loss of life -- is very, very important.

I also commend Senator Libous for the way he's approaching this, as it is a phaseout. It would be really nice to just cut off the money and do it all at once and keep the money in the dedicated highway fund, but we know that that would cause problems elsewhere.

So I appreciate the interest and what he has done for this bill, and I look forward to voting for it and hope that all will support the bill.

Thank you.

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 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LIBOUS: Mr. President, can we return to reports of standing committees. I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT GRIFFO: Reports of standing committees.

The Secretary will read.

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

Senate Print 2631, by Senator Marcellino, an act to amend the Tax Law;

Senate Print 4248, by Senator Hassell-Thompson, an act in relation to term of service of trustee-elects.

Both bills ordered direct to third reading.

ACTING PRESIDENT GRIFFO: May we have just some quiet in the chamber, please.

Senator Libous.

SENATOR LIBOUS: Could I move we

accept the report of the Rules Committee, Mr. President.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The report is accepted.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we now have the noncontroversial reading of Supplemental Calendar 33A, please.

ACTING PRESIDENT GRIFFO: The Secretary will read the noncontroversial supplemental calendar.

THE SECRETARY: Calendar Number 391, by Senator Marcellino, Senate Print 2631 --

SENATOR BRESLIN: Lay it aside.

ACTING PRESIDENT GRIFFO: Lay it aside.

THE SECRETARY: Calendar Number

392, by Senator Hassell-Thompson, Senate Print 4248, an act in relation to term of service of trustee-elects.

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, 56.

ACTING PRESIDENT GRIFFO: The bill is passed.

That completes the noncontroversial reading of the supplemental calendar, Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. Could we have the reading of the controversial supplemental calendar.

ACTING PRESIDENT GRIFFO: The Secretary will ring the bell, and the Secretary will read.

THE SECRETARY: Calendar Number 391, by Senator Marcellino, Senate Print 2631 --

SENATOR KRUEGER: Explanation.

SENATOR BRESLIN: Explanation.

ACTING PRESIDENT GRIFFO: Senator Breslin and Senator Krueger have requested an explanation, Senator Marcellino.

SENATOR MARCELLINO: Mr. President, it will be my pleasure to provide one to my two distinguished colleagues.

This legislation would require the Department of Taxation and Finance to pay tax refunds within 30 days of receipt of a tax return.

ACTING PRESIDENT GRIFFO: Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President. Would the sponsor please yield?

ACTING PRESIDENT GRIFFO: Will the sponsor yield?

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor does yield.

SENATOR KRUEGER: Thank you.

Have you gotten an opinion from the Department of Tax and Finance regarding this

legislation and their position?

SENATOR MARCELLINO: No, we have not, Senator.

SENATOR KRUEGER: If the sponsor would continue to yield.

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

Do you know the current average turnaround by the Department of Tax and Finance for refunds on personal income taxes?

SENATOR MARCELLINO: Senator, I couldn't give it to you to the day. I know what the current law requires, 45 days.

But it is my understanding, in conversation with a number of my constituents and even some of our fellow members, that that date is not necessarily adhered to. There are some members who filed returns in January and still haven't gotten their refunds back. There are others who got them back quickly and others who just never get them back for a reasonable period of time, without written explanation as to why.

SENATOR KRUEGER: Mr. President, if the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The Senator yields.

SENATOR KRUEGER: Thank you. Would this bill to apply to all refunds owed by the Department of Tax and Finance or selected taxes?

SENATOR MARCELLINO: If you're owed money, you should get it back. It's your money.

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

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: My reading of the bill is that it would just apply to personal income taxes. So the sponsor answered he thinks it applies to all money owed.

I just want to rephrase the question. Am I incorrect in my reading of the bill, that it's just on personal income taxes?

SENATOR MARCELLINO: I believe the bill as written would require the payment -- let me just double-check, but I believe you're right. Hold on.

I was right, Senator, it applies to all refunds owed.

SENATOR KRUEGER: Thank you.

Mr. President, I correct myself and thank the sponsor. My question was actually really addressed to -- was intended to clarify that there may be different issues for corporate franchise taxes or personal income tax or sales and use taxes. Which is a statement and correction, not a question.

Now, will the sponsor continue to yield, please?

SENATOR MARCELLINO: Yes, I do.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

Do we have any estimated cost of what would be involved for the State of New York to change its system? It would overlap, I think, both the Department of Tax and Finance, its processing vendors, and

potentially the Office of the State Comptroller. Because currently we have a 30-day -- it would change from 45 days to 30 days. So have we estimated what it would cost the State of New York?

SENATOR MARCELLINO: No, we have not estimated that, Senator.

But I would suspect that, as has been my experience when you talk to various departments and you're dealing with them to make changes, the departments always tell you it's going to cost you huge amounts of money to make what I consider to be changes on computers these days. These taxes do not have to be entered by abacus, and they're not entered by hand. Everything is done on computers. Everything is calculated on computers. And it requires the change of some computer programming, which should not, in my mind, require great expense.

However, we have not sought and we do not have an estimate.

SENATOR KRUEGER: Mr. President, if the sponsor would continue to yield, please.

SENATOR MARCELLINO: I yield.

SENATOR KRUEGER: Thank you.

So we don't know what the fiscal impact is, but conceivably there's a fiscal impact. So why didn't we move this bill through the Finance Committee?

SENATOR MARCELLINO: I think you're going to have to ask the Finance Committee chairman that, because you are the ranking member of that. The bill was not flagged by Finance, it was referred to Rules as per procedure.

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

SENATOR MARCELLINO: I continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

And so in fact for the record, I am the ranker, so I can't flag bills to Finance. But I would have flagged this to Finance had I been the chair, because I'm quite sure this will be a cost to the state.

And a follow-up question --

SENATOR MARCELLINO: If I may --

SENATOR KRUEGER: Yes.

SENATOR MARCELLINO: It's a cost to the state because they have to pay a refund no matter what. So the state has to pay a refund, and they do expect to do that.

SENATOR KRUEGER: Mr. President, through you. There would be, I believe, an additional cost to the change for changing its systems over with the changes required in this bill.

But this bill also requires Tax and Finance to pay interest if they do not make payments or refunds to taxpayers within 30 days. And I believe it explicitly states an interest rate to be paid.

Could the sponsor clarify that section of the law for me?

SENATOR MARCELLINO: It requires a 6 percent interest rate if the refund isn't provided in a timely fashion or if the department doesn't provide written notice as to the reason why the tax return -- I'll wait till you can hear me.

SENATOR KRUEGER: Thank you. If the sponsor would continue to yield.

SENATOR MARCELLINO: I hadn't finished my answer. I was simply waiting till you could hear my answer so we could have a colloquy here.

SENATOR KRUEGER: Excuse me. Thank you.

SENATOR MARCELLINO: A tax refund, if a written notice is applied to or sent to a constituent or a tax person, the person who pays their taxes and is owed a refund should receive a written notice from the department if they're not going to get their refund in a timely fashion because they either made a mistake on their refund or there is other such discrepancy found by the Taxation and Finance Department.

If that person -- if you, Senator, do not pay your taxes in a timely fashion, you get a fine applied to you immediately. Without argument, without payment, without discussion and without appeal, you will be fined for late payment of taxes and the government will expect to get their money

ASAP. There will be no leeway as to whether or not you can pay them within 10 days, 30 days, or 50 days. You must pay. If you don't pay, you are threatened with jail or loss of licenses, liens placed against your pay, and all other such penalties.

So the state, the federal government, the tax collector insists on prompt payment from the taxpayers of money owed to the government. And I don't think it's unreasonable to ask the government to pay promptly to the taxpayer. It's their money. They're owed it. And they should get it.

SENATOR KRUEGER: Thank you. If the sponsor would continue to yield.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR MARCELLINO: I'll be happy to.

SENATOR KRUEGER: Thank you. So I'm interested in the discussion of discrepancy that you just raised.

So if the department sees a discrepancy between what you have filed and what they understand to be the taxes owed, are

they supposed to still make the refund or pay the interest?

SENATOR MARCELLINO: No. Just simply notify the taxpayer that there is a problem with the tax form and that there has to be a discussion and we'll set up a date for meeting, and you meet with the Department of Taxation and Finance and you settle your accounts, as to whether or not the mistake is real, whether you have a reasonable explanation and they agree with you, or whatever. In some cases there's even court cases; you may want to take them to court and file on that basis.

So it doesn't require in that sense, in my understanding. It would simply mean the procedure has to be followed. In other words, we just don't want the taxpayer left out there in limbo with no response, no answer, and money that they're owed but no explanation as to why they're not getting it.

ACTING PRESIDENT GRIFFO: It's getting a little noisy in the chamber. I'd ask if you could take conversations outside the chamber so the members can hear each other

in conversation.

Senator Krueger.

SENATOR KRUEGER: Thank you.

So just to clarify so that the sponsor and I are both on the same page, if the department concludes there is some kind of discrepancy, they do not have to pay interest after 30 days, they have to provide notice and clarification to the taxpayer within 30 days?

SENATOR MARCELLINO: Yes, Senator, that would be my understanding of the bill, that the department is required to notice the taxpayer that there is a problem with the tax return and that an explanation is required, set up some type of a meeting date with the taxpayer that is mutually acceptable so they can get together and deal with it.

That's normal procedure right now. That's the way it operates right now. You don't get your refund until everything is clarified.

SENATOR KRUEGER: Thank you.

If through you, Mr. President, the sponsor would continue to yield.

SENATOR MARCELLINO: Sure.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Is it your understanding, in your language of discrepancy, that the agency, Tax and Finance agency, could define discrepancy in a very broad purview, anything they wish it to be, and simply send a notice for clarification, that there doesn't need to be more specific definitions of what the discrepancy is? It may be that in fact the tax return was incorrect, there was more exemptions taken than legally allowed, for example.

SENATOR MARCELLINO: No, I -- Senator, I have a little more faith in the government and the people involved. I do not believe the government is just going to send a blanket notice out to taxpayers that "there's a problem with your return so therefore we're going to hold your refund until we clarify the issue."

All tax returns, as you well know, now are reviewed by computer. It's all computerized. There are parameters set. If the numbers go above a certain point or below

a certain point, the computer clicks them off, sets these filings apart, and procedures follow in that basis.

The entire system is computerized. The federal government has gone to total computerization. You must, if you want -- and they'll tell you this, if you want your refund promptly delivered, file by electronic means and you will get it back. If you do not, if you file by hand and they have to read it by hand and enter it by hand, that might delay the process. However, if you file electronically, which is the current mode, everything gets taken care of by machine and you can get an appropriate response in a reasonable period of time.

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

SENATOR MARCELLINO: Sure.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

And I agree with the sponsor that the vast majority of tax returns that are

being filed electronically are getting a relatively fast response from New York State. And I believe their average rate of responding on tax refunds is about 30 days currently.

Although the sponsor raises an interesting question, because I believe this year there was a specific problem with a software program, TurboTax, and New York State filings. So if the software program was responsible for the problem leading to a delay in the refund beyond 30 days, who would have be responsible for paying interest to the taxpayer under this bill?

SENATOR MARCELLINO: If it was the government's program, the government would be responsible. If it's your personal program and you created the problem because you used a program that didn't mesh, then it's your problem and you have to deal with it. But if the government set the program up and the government created the program or purchased the program and then used the program and it screwed up, it's their fault and you're owed.

SENATOR KRUEGER: Thank you. So, Mr. President, permit me just to repeat to

confirm from the sponsor.

If you're using, say, TurboTax, which is a private software company, or some other private software to do your electronic filing of state taxes, and the mistake is due to the software program, then the State of New York would not be liable for the interest or the delay in refund, under this law?

SENATOR MARCELLINO: If I as a taxpayer cause a problem that creates a delay, it's my problem. Not the government's problem. If it's the government's program that causes the delay, then it's the government's problem.

SENATOR KRUEGER: Mr. President, if the sponsor would continue to yield.

SENATOR MARCELLINO: I'd be happy to.

ACTING PRESIDENT GRIFFO: The sponsor yields.

SENATOR KRUEGER: Thank you.

This bill requires a 6 percent interest rate. That's, in today's world, an exceptionally high rate of return. How did the 6 percent number get determined? I would

love to make 6 percent on anything and everything, to be quite honest.

SENATOR MARCELLINO: Yeah, so would I, Senator. These days, if you make a half a percent, you're lucky, on your bank account.

But it would be my understanding that the taxpayers should get what I consider a fair return on their money, and 6 percent would provide an incentive to do it correctly.

SENATOR KRUEGER: Mr. President, if the sponsor would continue to yield.

SENATOR MARCELLINO: I will continue to yield.

SENATOR KRUEGER: Thank you.

Because we both agree that this is a significant interest rate, do we have any estimate of how much this could cost the State of New York in a one-year period and where we would get the money to pay this cost?

SENATOR MARCELLINO: Senator, that would be frankly an impossibility to predict, because you don't know from year to year what the tax is going to be. You don't know who's going to be paying, how much

they're going to be paying.

I assume you could get a -- if you went back a few years, you could probably get past taxes paid and, you know, apply an estimate to that, but that would have absolutely no impact as to what next year's tax payment would be, because it would be subsequently less.

As you well know, this state budget is dependent on tax returns. And from year to year those tax returns go up, they go down. Times are good, they're up. Times are bad, they go down. So everybody's impacted. So I think it would be almost impossible to give you an accurate explanation on that.

SENATOR KRUEGER: Mr. President, if the sponsor would continue to yield.

SENATOR MARCELLINO: Happy to.

SENATOR KRUEGER: Thank you.

As I recall, when we last visited this bill a year or two ago when Governor Paterson indicated that because of lack of funds the state would need to elongate the refund process by three weeks, he declared he had unilateral authority to do this as

Governor.

Under this legislation, would the Governor still have unilateral authority to lengthen the process beyond the 30-day period?

SENATOR MARCELLINO: I disagreed with my good friend David Paterson when he did that. He took advantage of his executive position in being able to direct the agencies of the state and direct the commissioners of the state to not pay out money that was duly owed to the residents. His claim at the time, I believe, he was fearful that the state would run out of money and he wouldn't have cash on hand to pay his bills.

Well, the taxpayers are a bill due and owed, and they had a right to get their money collected. And I don't think any individual has a right to just take it on their own and say "I'm not going to pay this bill today because I don't think we have the money." Or "I don't want to pay this refund out or I don't want to pay these people because I, the Governor of the state, decide that I think we should have this money in our bank account collecting interest so that we

can apply it going forward to other needs."

You're borrowing the money from the taxpayer when you do that. That taxpayer is due and owed interest on that money. It's a loan to the government and, as a matter of fact, an involuntary loan to the government that should never have occurred.

SENATOR KRUEGER: If through you --

SENATOR MARCELLINO: I yield.

SENATOR KRUEGER: Thank you.

Again, I don't find language in this bill that explicitly prevents a Governor from unilaterally determining that because of state cash-flow issues he may need to elongate the time period beyond 30 days, as under the 45-day statute there is no explicit language and so we learned that he could.

So I just want to clarify. This legislation would not prevent a Governor from unilaterally determining that because of a cash flow or other situation in the State of New York he could order the Department of Tax and Finance to go beyond the 30 days?

SENATOR MARCELLINO: You're

right. And the response to that is if the Governor unilaterally elongates the time period under this legislation that is proposed, he pays 6 percent interest to the taxpayer for borrowing their money. It's as simple as that.

I don't believe David Paterson, Governor Paterson had a right to do what he did, but he did it. Those taxpayers, in my mind, are owed money. They loaned their money involuntarily to the State of New York for a period of time. They should have been recompensed for providing that service and that money that they couldn't use and they couldn't apply for their own personal needs. It was their money.

This bill would provide a disincentive for a Governor to do that because it provides that if you don't pay the money out in a timely fashion as indicated by the bill, you owe 6 percent interest rate, which my lawyer friends tell me is below the rate of a judgment, which is approximately 9 percent these days. So, you know, we're working a happy medium here.

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

SENATOR MARCELLINO: My pleasure.

SENATOR KRUEGER: Thank you.

SENATOR MARCELLINO: [Inaudible.]

SENATOR KRUEGER: We're having fun today, two bills.

So under current reality, only approximately 33 percent of the money paid out in personal income tax refunds each year is actually a refund for an overpayment of taxes either through withholding or estimated payments or carry-forwards. Therefore, the revenue implications of this bill as written can be quite large. Because I read this bill as requiring the 6 percent interest to apply to, again, all taxes. And that would include -- just double-checking -- if there was a delay in getting someone's earned income tax credit to them, a noncustodial parent tax credit, the Empire State child credit, the child and dependent care credit, college tuition credits, real property tax credits.

Is that your understanding of this

bill, that there would be the 6 percent interest applied on all of the above?

SENATOR MARCELLINO: On all of the above only if they don't pay the refund in a timely fashion. If you pay the refund in a timely fashion which is duly owed to the taxpayer, regardless of who or what the taxpayer is or the reason for the tax payment, then you don't have to pay any interest penalty, you simply pay the refund, which is the appropriate thing to do.

They're owed the money. It's like the commercial says, it's my money and I want it now. The taxpayers are screaming they want their money now, and in a timely fashion. I think we, as representatives of the people of this state, owe them that much that they get their money in a timely fashion and if we make a mistake, if government screws up, government should pay a penalty like everybody else.

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

ACTING PRESIDENT GRIFFO: Senator Krueger on the bill.

SENATOR KRUEGER: I'm torn. I

want to thank the sponsor for his explanation. I know that this is a bill that has been floating around for quite a few years in the Senate. And I'm torn because I think the sponsor is right; if people are owed refunds, then the State of New York should be appropriately timely and professional in getting them their money.

My dilemma is I don't think we spent enough time fine-tuning this bill. The fact that we haven't asked Tax and Finance what any of the technical effects that this bill would have on them, we don't know how much change would be required in systems, whether there would be additional staff required.

The effective date is to go into effect immediately. We're right in the middle, technically, of tax season. People's taxes have to be submitted by April 15th. And so if we were to pass this bill and it came into law, by May 15th everything would have to change and be put into effect. Or that's how I read "to go into effect immediately."

So I don't think we're really ready

to roll this out immediately. I have to say that the budget did not factor in additional costs for the Department of Tax and Finance for implementation, start-up, and in fact speeding up the process by which they get refunds back to taxpayers.

Although I am not sure that there is a major outcry from the public calling for this legislation in its current form immediately, because it turns out 80 percent of people are receiving their refunds within 30 days already. So you could argue, well, so this isn't that big a deal because it's only the other 20 percent of the people. Or you could say this is a really big deal, we're requiring changes in lots of different systems for 100 percent of tax returns when technically there might be a problem only for 20 percent or there might not be a problem at all because those 20 percent could in fact fall into the discrepancy category that the sponsor very correctly explained was possible.

I also am very concerned that we have a 6 percent interest rate attached to this. And I have no idea, nor does the

sponsor, how large a cost this would be for the State of New York.

A 6 percent rate of return, I have to say you almost want the Department of Taxation not to get that refund back to you. You will probably find tax experts going into the business of figuring out just exactly how to put in a tax return so that the state can't get you the refund and you can earn 6 percent for a whole number of months. In fact, that might be a new career opportunity for job creation, figuring out how we can get 6 percent from the state.

And yet I also don't really want to vote against the bill because, again, I do think it's important for us to be sending the message we want an efficient, accountable government and when we ask people for their taxes and we hold them to paying them and following the laws, we should also follow the law.

So what I'm going to do is split the baby. I'm going to support the bill under the belief that it won't become law until and unless the Governor and the Assembly come back

to negotiate with us on how to deal with the technicalities of this bill.

So I want to thank the sponsor for his answers. I will be voting for the bill. But again, for the record, only supporting it as law if we can fix quite a number of the concerns I have raised here today.

Thank you very much, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Krueger.

I believe you have until the 18th this year.

SENATOR KRUEGER: Excuse me.

ACTING PRESIDENT GRIFFO: Senator Robach.

SENATOR ROBACH: Yes, just very quickly.

I rise to applaud Senator Marcellino for putting this bill in. Those of you that really do hands-on constituent service, you'll know there's nothing more irate than somebody who's waiting for their income tax return to come in.

And, you know, I have seen many times -- the current law says they're supposed

to pay 3 percent interest, the state. I haven't even seen that applied, let alone changing it to the 6 percent. I don't know who arbitrates that or who enforces it, but I can tell you I've had many constituents who have gone well past the 45-day time before they got their tax refunds and not seen that 3 percent. And so I think this will just be a another tool to speed this along.

And one thing, I can't remember who brought it up, Senator Krueger or Senator Marcellino, but what I've found in advocating for constituents are clearly, for a lot of my elderly constituents and low-income constituents who don't file electronically, they seem to disproportionately have a longer return.

And I had one individual that was literally waiting to do a home improvement, predicating getting that money. And even with all of our work, it still took a great length of time to get that for the individual. And their quote was: "You know, we have to put it in on time. Shouldn't the state have to give it back in a timely fashion?"

And I think that's the sentiment of Senator Marcellino's bill. My guess is by moving from 45 to 30 days you'll really just more be enforcing the 45-day limit we currently have.

And so I'm very happy to vote for this bill. And I hope, rather than change, we can all work together to maybe get some action in the other house to make this a reality for all of our mutual constituents.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Robach.

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 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 2. Senators Duane and Parker recorded in the

negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Libous, that concludes the reading of the controversial calendar.

SENATOR LIBOUS: Mr. President, there will be an immediate meeting of the Rules Committee in 332.

The Senate will stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT GRIFFO: There is an immediate meeting of the Rules Committee in Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 5:18 p.m.)

(Whereupon, the Senate reconvened at 5:29 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order. The Senate will come to order.

Senator Maziarz.

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

Can we return to the reports of

standing committees. I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT GRIFFO: The Secretary will read.

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

By Senator Flanagan, Senate Print 4211, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Senator Maziarz.

SENATOR MAZIARZ: I move to accept the report of the Rules Committee, Mr. President.

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?

(No response.)

ACTING PRESIDENT GRIFFO: The Rules report is accepted.

Senator Maziarz.

SENATOR MAZIARZ: Can we have the

noncontroversial reading of the calendar, please.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 368, by Senator Flanagan, Senate Print 4211, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT GRIFFO: Lay it aside.

Senator Maziarz, that completes the noncontroversial reading of the supplemental calendar.

SENATOR MAZIARZ: Just hold on for one second, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Maziarz.

(Pause.)

SENATOR MAZIARZ: Mr. President.

ACTING PRESIDENT GRIFFO: Senator Maziarz.

SENATOR MAZIARZ: The Senate will

stand at ease for a moment.

ACTING PRESIDENT GRIFFO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:40 p.m.)

(Whereupon, the Senate reconvened at 5:52 p.m.)

ACTING PRESIDENT GRIFFO: The Senate will come to order. The Senate will come to order.

Senator Breslin.

SENATOR BRESLIN: Mr. President, I request that the lay-aside be removed and we proceed on the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The lay-aside requested is so ordered, and the Secretary will read the substitution.

THE SECRETARY: Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 6611 and substitute it for the identical Senate Bill Number 4211, Third Reading Calendar Number 368.

ACTING PRESIDENT GRIFFO: The substitution is so ordered.

Senator Maziarz, we will return now to the noncontroversial reading. Without objection?

SENATOR MAZIARZ: Without objection, Mr. President.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 368, by Member of the Assembly Nolan, Assembly Print Number 6611, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

Senator Maziarz.

SENATOR MAZIARZ: Yes, Mr. President. Can we at this time return to

motions and resolutions.

ACTING PRESIDENT GRIFFO: Motions and resolutions.

SENATOR MAZIARZ: Mr. President, on page number 11, on behalf of Senator Marcellino I offer the following amendments to Calendar Number 129, Senate Print Number 998A, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

Is there any further business at the desk?

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

SENATOR MAZIARZ: Thank you, Mr. President. There being no further business, I move that we adjourn until Wednesday, April 13th at 11:00 a.m., 11:00 a.m. tomorrow.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until Wednesday, April 13th, at 11:00 a.m.

Senate adjourned.

(Whereupon, at 5:54 p.m., the Senate adjourned.)