NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:39 p.m.

REGULAR SESSION

SENATOR LUIS SEPÚLVEDA, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT SEPÚLVEDA: The Senate will come to order.

I ask everyone present to please rise and repeat the Pledge of Allegiance.

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

ACTING PRESIDENT SEPÚLVEDA: In the absence of clergy, I ask that everyone bow their head in a moment of silent reflection or prayer.

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

ACTING PRESIDENT SEPÚLVEDA: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, February 3, 2019, the Senate met pursuant to adjournment. The Journal of Saturday, February 2, 2019, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT SEPÚLVEDA: Please can we have order in the chamber. Thank you.

Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Gianaris.

SENATOR GIANARIS: Thank you, Mr. President.

On behalf of Senator Kaplan, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Bills 2670 and 2506.

ACTING PRESIDENT SEPÚLVEDA: It is so ordered.

SENATOR GIANARIS: On behalf of Senator Krueger, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Bill 2603.

ACTING PRESIDENT SEPÚLVEDA: It is so ordered.

SENATOR GIANARIS: And on behalf of Senator Gaughran, I move that the following bill

be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Bill 637.

ACTING PRESIDENT SEPÚLVEDA: It is so ordered.

SENATOR GIANARIS: Can you please call on Senator Griffo.

ACTING PRESIDENT SEPÚLVEDA: Senator Griffo.

SENATOR GRIFFO: Thank you, Mr. President.

On behalf of Senator O'Mara, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Bill 1888.

ACTING PRESIDENT SEPÚLVEDA: It is so ordered.

Senator Gianaris.

SENATOR GIANARIS: Mr. President, I'd like to call up Privileged Resolution J323, by Senator Savino. Please read the title only and recognize Senator Savino to speak.

ACTING PRESIDENT SEPÚLVEDA: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 323, by Senator Savino, commending the Boy Scouts of America upon the occasion of celebrating Founders Day on February 22, 2019.

ACTING PRESIDENT SEPÚLVEDA: Senator Savino on the resolution.

SENATOR SAVINO: Thank you, Mr. President.

I want to take this moment to congratulate and commemorate the Boy Scouts of America upon the occasion of celebrating Founders Day.

We have with us in the chamber right now some Boy Scouts and some troop leaders; I'm going to mention them in a moment. But we've had over a hundred scouts here today celebrating, visiting our government, participating in their civic duty.

We have with us Ethan Draddy, who's the CEO of the Greater New York Councils; Chris Coscia, CEO of the Theodore Roosevelt Council. And as I said, more than 100 Scouts were here today.

I think it's very important that we

now recognize that it's not the Boy Scouts of America anymore, it's BSA. Why did they change the name? Because they opened up their ranks to allow girls to participate as well in scouting. Which probably makes it a lot easier on parents, who are oftentimes required to move their kids from place to place, so they can take their daughters and their sons to BSA to participate in scouting.

Scouting has had a profound effect on the development of young people in our nation. Many times here on the floor we are celebrating and commemorating the achievement of the Eagle Scout rank. Some of our members in this chamber are Eagle Scouts.

Scouting has helped improve the lives and educational opportunities for boys and young adults and girls. It helps them build character, train them in the responsibilities to participate in citizenship, develop personal fitness and moral fitness. It has been a fabric of our lives for almost a hundred years.

And we welcome them to the chamber, and we offer them all of the privileges of the Senate.

Thank you, Mr. President.

ACTING PRESIDENT SEPÚLVEDA: The presiding officer calls on Senator Gounardes, who wishes to speak on the resolution.

SENATOR GOUNARDES: Thank you, Mr. President.

I want to thank my colleague Senator Savino for introducing this resolution.

I stand here as one of those proud Eagle Scouts that you referenced, that you mentioned, so I want to direct my comments to the Scouts here in the gallery.

Remember the story of how scouting started, Boy Scouting started, scouting in the United States started. It was a gentleman, W.D. Boyce, who went to London and he got lost in a fog. He lost his way, he didn't know where he was going, until a boy came up to him and helped him find his way. In uniform, a Scout. And when W.D. Boyce went to go offer him a tip to thank him, he said: "No, thank you, sir, I'm a Scout. This is my good turn."

And he was so taken by that example that he came back to the United States and he started what became the Boy Scouts of America.

So as you all go into your scouting careers, and whether you are just starting out as a Tenderfoot Scout or you're working on the trail to Eagle or you've even achieved Eagle Scout already and now you're serving the scouting program in other roles and other capacities, always ask yourself how you can be like that Scout in the fog, helping other people find their way.

Maybe it's helping someone who's homeless or down on their luck, on the subway or on the train or in our communities. Maybe it's standing up for someone who's being faced with antisemitism or Islamophobia or bigotry or being made fun of or teased or picked on because of the way they look or because of who they love or whatever it might be. Or maybe it's just standing up and doing what's right because it's the right thing to do.

That is the charge that we all as Scouts, boy Scouts and girl Scouts, in this day and age have placed upon us when we wear that uniform and when you wear those patches proudly.

So congratulations to each and every one of you. I salute you all as one of your own.

Thank you for being here. Thank you for all the great work you do.

And thank you, Senator Savino, for introducing this resolution.

ACTING PRESIDENT SEPÚLVEDA: Senator Sanders on the resolution.

SENATOR SANDERS: Thank you, Mr. President.

I too thank Senator Savino for this excellent move that she's made.

I stand as a Scout saluting Scouts. Some of my fondest moments were in the Ten-Mile River Scout Camp, where I learned many different things of survival and how to do it. It aided me well when I went into the Marine Corps. It was not as difficult, because I went through the Boy Scouts.

It's also aiding me well here. I remember certain principles that we try to remember and keep: To leave a thing better than we found it, to stand for certain principles that -- of which you are taught every day. And it will help you a great deal with your life wherever it takes you.

So again, I want to thank you and I

want to thank you all for making this country so much better just by being who you are. Thank you very much.

And thank you, Mr. President. You look good up there.

(Laughter.)

ACTING PRESIDENT SEPÚLVEDA: Thank you.

Senator Hoylman on the resolution.

SENATOR HOYLMAN: Thank you, Mr. President.

I wanted to welcome the Scouts here and thank Senator Savino for this resolution.

I'm an Eagle Scout, like Senator Gounardes, and I still have a scar on my index finger from carving a merit -- a neckerchief holder. So I wear that proudly too every day.

I just wanted to say that scouting is about public service, and you really represent the finest aspirations to that. I am a State Senator, I think, because I was initially a Boy Scout.

And I wanted to also mention that the Scouts are evolving in so many ways that we should commend them for -- for starters, for

accepting kids of all genders, as Senator Savino mentioned, for lifting the ban on openly LGBTQ members and gay Scout leaders. We should commend them for that.

And a young woman in my district named Sydney Ireland, from Peter Cooper-Stuyvesant Village, is an unofficial member of Scouts BSA Troop 414. She took it upon herself to organize her Eagle Scout project, where she helped veterans in the district. She has been writing op-eds and campaigning for gender equality in the Scouts, so the announcement earlier this week was partly due to her effort. And we're trying to get Sidney recognized as an Eagle Scout right away so she doesn't have to wait the full 18 months in order to do so.

So congratulations to Sidney Ireland, and congratulations to all of you.

Thank you, Mr. President.

ACTING PRESIDENT SEPÚLVEDA: Thank you.

Senator Little on the resolution.

SENATOR LITTLE: Thank you, Mr. President.

I too would like to join my

colleagues in congratulating and thanking the Scouts who are here today and the leaders who have put in so much time and effort with these young men and women today.

I am the proud grandmother of two Eagle Scouts, and I attended an Eagle Scout ceremony recently. And one of the things that I told them is I was talking to a gentleman, and I think it was in a bigger city, but he was telling me about how he had a big negotiation to do for his business and he was meeting another businessman who he was really nervous about trying to negotiate some contract. But when the other guy came in and sat down in the office, he noticed he had his Eagle Scout pin on. He knew then this was an honest man of integrity, good character, trustworthy, and someone he could respect. And they settled their contract thing.

So I also told them that you can never say "I was an Eagle Scout," because you are Eagle Scouts for life. You are Eagle Scouts.

And as you can see, just your leadership skills you can see how many people here and in other bodies of legislatures are former Eagle Scouts, because it's a great

preparation for this role that we have.

But it's also a great start on volunteer service. And I am sure that your project was a volunteer service, but you will have many, many, many volunteer projects as you go through life.

Thank you for all your efforts, and congratulations.

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

(Response of "Aye.")

ACTING PRESIDENT SEPÚLVEDA: Opposed?

(No response.)

ACTING PRESIDENT SEPÚLVEDA: The resolution is adopted.

Senator Gianaris.

SENATOR GIANARIS: At the request of Senator Savino, the resolution is open for cosponsorship.

ACTING PRESIDENT SEPÚLVEDA: The resolution is open for cosponsorship. Should you choose not to be a cosponsor of the resolution, please notify the desk.

Senator Gianaris.

SENATOR GIANARIS: Can we now take up the noncontroversial reading of the calendar, please.

ACTING PRESIDENT SEPÚLVEDA: The Secretary will read.

THE SECRETARY: Calendar Number 22, by Senator Brooks, Senate Print 1634, an act to amend the Insurance Law.

ACTING PRESIDENT SEPÚLVEDA: Read the last section.

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

ACTING PRESIDENT SEPÚLVEDA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SEPÚLVEDA: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 22 are Senators Akshar, Antonacci and Helming.

Ayes, 59. Nays, 3.

ACTING PRESIDENT SEPÚLVEDA: The bill is passed.

THE SECRETARY: Calendar Number 29,

by Senator Metzger, Senate Print 1012, an act to amend the General Municipal Law.

SENATOR GRIFFO: Lay it aside.

ACTING PRESIDENT SEPÚLVEDA: Lay it aside.

THE SECRETARY: Calendar Number 30, by Senator Kennedy, Senate Print 250, an act to establish a private student loan refinance task force.

ACTING PRESIDENT SEPÚLVEDA: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT SEPÚLVEDA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SEPÚLVEDA: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT SEPÚLVEDA: The bill is passed.

THE SECRETARY: Calendar Number 41, by Senator Seward, Senate Print 2039, an act to amend the Insurance Law and a chapter of the Laws of 2018.

ACTING PRESIDENT SEPÚLVEDA: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2018 amending the Insurance Law.

ACTING PRESIDENT SEPÚLVEDA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SEPÚLVEDA: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT SEPÚLVEDA: The bill is passed.

THE SECRETARY: Calendar Number 49, by Senator Carlucci, Senate Print 521A, an act to amend the Highway Law.

ACTING PRESIDENT SEPÚLVEDA: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT SEPÚLVEDA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SEPÚLVEDA:

Senator Carlucci to explain his vote.

SENATOR CARLUCCI: Thank you, Mr. President.

I want to thank my colleagues for supporting this legislation. This legislation will rename a portion of Route 17 in Hillburn to be the "Thurgood Marshall Memorial Highway."

And Route 17 is the longest state route in the State of New York, 397 miles. And this is really where it starts in New York, when it enters in from New Jersey. And what this legislation is doing is really celebrating the life and legacy of Thurgood Marshall and the work that he did leading up to his appointment to the Supreme Court.

In 1943, he came to Hillburn as a lawyer for the NAACP and fought to desegregate the schools in Hillburn. And he was successful in that case, and it's a proud history that really led to, 11 years later, his victorious ruling on Brown vs. Board of Education. This was 11 years earlier and really started the trend to finally desegregate our schools in the United States.

So it's a proud history that we have

in Hillburn of Thurgood Marshall's legacy. It's something that's not widely known. That's why this legislation is important; it really recognizes and celebrates the significance that Thurgood Marshall had here in New York State and of course throughout the entire United States and the entire world.

So on behalf of Thurgood Marshall's legacy, I want to thank my colleagues for supporting this legislation. And I vote in the affirmative.

Thank you, Mr. President.

ACTING PRESIDENT SEPÚLVEDA: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT SEPÚLVEDA: The bill is passed.

THE SECRETARY: Calendar Number 50, by Senator Breslin, Senate Print 978, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT SEPÚLVEDA: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day after it shall have become a law.

ACTING PRESIDENT SEPÚLVEDA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SEPÚLVEDA: Announce the results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT SEPÚLVEDA: The bill is passed.

Senator Gianaris, that completes the noncontroversial reading of today's calendar.

SENATOR GIANARIS: Thank you, Mr. President.

Can we now go to the controversial reading, please.

ACTING PRESIDENT SEPÚLVEDA: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 29, by Senator Metzger, Senate Print 1012, an act to amend the General Municipal Law.

ACTING PRESIDENT SEPÚLVEDA: Senator Little, why do you rise?

SENATOR LITTLE: Thank you. Would Senator Metzger answer a few questions in regard to this?

ACTING PRESIDENT SEPÚLVEDA: Senator Metzger, do you yield?

SENATOR METZGER: Yes, I would, Mr. President.

ACTING PRESIDENT SEPÚLVEDA: The sponsor yields.

SENATOR LITTLE: Thank you.

It appears that this school, the Middletown Central School -- which is a bigger school than many of the schools I represent -- however, is leaving their consortium and saving an amount of money of like $3.4 million of the health insurance monies they were paying into the consortium, and wanting to start their own private reserve fund just for their school to self-fund their insurance. Is that correct?

SENATOR METZGER: That's correct.

SENATOR LITTLE: And do they have money to begin this fund with?

SENATOR METZGER: Yes, they do. They actually have -- they have a significant fund balance, and the Comptroller actually directed them to address it by establishing a reserve fund, as one of the measures to address.

But I do want to point out that

there are about a dozen school districts that self-insure, and this body has passed legislation approving reserve funds for a number of schools.

SENATOR LITTLE: Thank you. Would the sponsor respond to a few other questions?

ACTING PRESIDENT SEPÚLVEDA: Does the sponsor continue to yield?

SENATOR LITTLE: Yeah, I have no problem with the reserve fund. I actually support legislation that would create --

ACTING PRESIDENT SEPÚLVEDA: Senator Little, just wait for her response.

Senator, do you continue to yield?

SENATOR METZGER: Yes, I do.

SENATOR LITTLE: Okay, thank you.

ACTING PRESIDENT SEPÚLVEDA: Thank you. My apologies.

SENATOR LITTLE: I have no problem with reserve funds. I realize that this school already has 16 reserve funds available to them.

And I actually have legislation that proposes a reserve fund for special education so that schools are prepared when someone moves into their district. I have one that would be for paying for teachers' retirement funds they can

do. And those have not passed yet.

However, I just wanted to make sure that this school -- and you seem to have indicated that that's what they're doing. They have been criticized because they were 15.36 percent over their unrestricted reserve fund. And they have corrected that; that was in 2017-2018. But last year, 2018-2019, they were still 7.11 percent over, and we need to stay at 4 percent, according to the Comptroller.

So they are putting money from that reserve fund into this new health reserve fund; is that correct?

SENATOR METZGER: I believe it's from -- it's coming out of the existing annual budget. But -- and not going from one reserve fund to another, if I understand your question.

SENATOR LITTLE: Would the sponsor answer another question?

ACTING PRESIDENT SEPÚLVEDA: Senator Metzger, do you continue to yield?

SENATOR METZGER: Sure. Yes.

SENATOR LITTLE: So this is my main concern, because many of our school districts -- and I represent 48 school districts -- are way

over their 4 percent. The average schools in this state have a reserve fund over 8.65 percent over what their needs are -- over the 4 percent, so -- or over their unrestricted fund.

So I'm now confused. Are they going to take this excess of the 7.11 percent reserve fund and use it? Or are you saying they are not going to use that fund?

SENATOR METZGER: So I -- we don't think they're using the excess. But they can contribute up to 5 percent annually to this reserve fund.

And from my perspective, just knowing -- from being in local government and also from our school district, health insurance costs are, you know, a driving factor in increasing local property taxes. And this is a tool that school districts can use to address that, and it's been shown to save millions of dollars. And I think it shows fiscal prudence to create a reserve fund. It's essentially if one year they experience unusually high claims. So from my vantage point, this is the fiscally responsible thing to do.

And the Middletown School District

has been budgeting conservatively. That's why they have that fund balance.

SENATOR LITTLE: Thank you. Would the sponsor respond to another question?

ACTING PRESIDENT SEPÚLVEDA: Senator Metzger, do you continue to yield?

SENATOR METZGER: Yes.

SENATOR LITTLE: When you say this is coming from their budget and that they can do up to 5 percent in a health insurance fund -- which is very important. I'm not saying it isn't. But where is that money coming from?

SENATOR METZGER: Well, this -- I think the intention is for it to come from the savings that they are earning -- that they are realizing from self-insuring.

SENATOR LITTLE: Yeah, but they're -- well, the most important thing that I'm trying to make here is that, you know, school districts get their money from the taxpayers. We have high property taxes in this state. And one thing we're trying to do is trying to lower those property taxes to attract more people to the state and make it more affordable for everyone.

Therefore, establishing a reserve

fund over and above what they really, really need is out of line. And so that's all I'm trying to do is question.

ACTING PRESIDENT SEPÚLVEDA: Senator Little, just to clarify. Are you on the bill or are you asking the sponsor to yield to a question?

SENATOR LITTLE: I guess I'm on the bill. So thank you.

ACTING PRESIDENT SEPÚLVEDA: Senator Little on the bill.

SENATOR LITTLE: So it's important that they have the taxpayers in mind and are not reserving more than they already have. They already are way over, 7.11 percent last year. Hopefully they will not be taxing the taxpayers to create an even bigger reserve fund here.

Thank you.

ACTING PRESIDENT SEPÚLVEDA: Are there any other Senators wishing to be heard?

Seeing and hearing none, the debate is closed.

The Secretary will ring the bell.

Senator Gianaris.

SENATOR GIANARIS: Mr. President,

without objection, can you please return this bill to the noncontroversial calendar.

ACTING PRESIDENT SEPÚLVEDA: Without objection, so ordered.

Read the last section.

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

ACTING PRESIDENT SEPÚLVEDA: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SEPÚLVEDA: Senator Akshar to explain his vote.

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

Clearly, this is a school district that does not have an issue hoarding taxpayer dollars. It is a school district that has a terrible track record of managing the taxpayer dollar.

It was suggested that this school district has so much money in the bank, $58 million by way of 16 reserve funds, because they budget conservatively. I would offer that they don't budget conservatively, they liberally tax the hell out of taxpayers. That's why

there's so much money in the bank.

So I'm voting no. And while it's not my school district, I'm going to stand with the hardworking taxpayers of that particular district and vote no.

ACTING PRESIDENT SEPÚLVEDA: Senator Akshar in the negative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 29 are Senators Akshar, Antonacci, Boyle, Flanagan, Helming, Jacobs, Jordan, Lanza, Ortt, Ranzenhofer, Robach, Tedisco and Young.

Ayes, 49. Nays, 13.

ACTING PRESIDENT SEPÚLVEDA: The bill is passed.

Senator Gianaris, that completes the noncontroversial reading of today's calendar.

SENATOR GIANARIS: Thank you, Mr. President.

Is there any further business at the desk today?

ACTING PRESIDENT SEPÚLVEDA: There is no further business at the desk.

SENATOR GIANARIS: I then move to

adjourn until Tuesday, February 5th, at 11:00 a.m.

ACTING PRESIDENT SEPÚLVEDA: On motion, the Senate stands adjourned until Tuesday, February 5th, at 11:00 a.m.

(Whereupon, at 4:08 p.m., the Senate adjourned.)