ALBANY, NEW YORK

March 26, 1996

3:05 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Would everyone please rise and join with me in the Pledge of Allegiance.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

The invocation today will be given by Pastor Tom Stiles from the First Baptist Church of West Seneca. He is also president of New Yorkers for Constitutional Freedoms.

Pastor Stiles.

PASTOR TOM STILES: Shall we pray. Heavenly Father, we thank You for life and liberty in our great land. We thank You for the many blessings that we've received from Your hand. I thank You that I live in a state where the Senate believes it's right and proper to pause and ask for the guidance of Heaven before conducting the business of the day. I pray God that You give these men and wisdom -- men and women wisdom as they make decisions, as they deliberate not only this day but throughout this

year. Help them to recognize, Heavenly Father, that before God they have three responsibili ties: To make laws that would cause evil to be punished, goodness to be promoted and the innocent to be protected, including the most innocent of all, the unborn. I thank You for our state and I ask God that Your blessing would continue to rest upon us and these men and women and their families this day. In Jesus' name. Amen.

THE PRESIDENT: Amen.

The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, March 25th. The Senate met pursuant to adjournment. Prayer by the Reverend Peter G. Young, Blessed Sacrament Church, Bolton Landing. The Journal of Sunday, March 24th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, reports the following bill directly to third reading:

Senate Print 6658, Budget Bill, an act to amend Chapters 50 and 53 of the Laws of 1995, making appropriations for the support of government.

THE PRESIDENT: Without objection, the bill goes directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Stafford, on page 27, I offer the following amendments to Calendar Number 508, Senate Print 6298, and I

ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

SENATOR FARLEY: On behalf of Senator Libous, Madam President, on page 19, I offer the following amendments to Calendar Number 418, Senate Print 4493, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

Senator Bruno.

SENATOR BRUNO: Madam President, can we ask for an immediate meeting of the Conservation Committee in Room 332.

THE PRESIDENT: There will be an immediate meeting of the Confirmations Committee in Room 332, the Environmental Conservation Committee.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe that there is a privileged resolution

at the desk by Senator Alesi. I would ask that its title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Alesi, Legislative Resolution commemorating the opening of Tops Markets, Incorporated International Super Center at the Perinton Square Mall.

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

(Response of "Aye.")

Opposed nay.

(There was no response. )

The resolution is adopted.

Senator Onorato.

SENATOR ONORATO: Madam President, I move the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senator Espada, Numbers 5174 and 5175.

I also move the following bill to be discharged from the respective committee and be recommitted with instructions to strike the enacting clause, for Senator Babbush, Senate Bill 6477.

THE PRESIDENT: The enacting clauses will be struck.

SENATOR ONORATO: Thank you.

Senator Bruno.

SENATOR BRUNO: Madam President, I now move the immediate adoption of the Resolution Calendar with the exception of Resolution 2357.

THE PRESIDENT: All those in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The Resolution Calendar is adopted.

Senator Bruno, are you ready for the calendar?

SENATOR BRUNO: Madam President, yes. Can we at this time take up the non-controversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 8, Calendar Number 128, by Senator Levy, Senate Print 25-B, an act to amend the Real Property Tax Law, in relation to granting a graduated real property school tax exemption.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 371, by Senator Seward, Senate Print 6141, an act to amend the Public Service Law, in relation to annual reports for gas, electric, steam and

water corporations.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 4. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 386, by Senator Lack, Senate Print 5954.

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

THE PRESIDENT: Lay it aside, please.

THE SECRETARY: Calendar Number 387, by Senator Seward, Senate Print 5997, an act to amend the Tax Law, in relation to extending the hotel and motel tax in Otsego County.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 397, by Senator Libous, Senate Print 4003-A, an act to amend the Correction Law, in relation to extending civil immunity to officers or employees to the Office of Mental Health.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 407, by Senator Holland, Senate Print 5072-A, an

act to permit the re-opening of the optional 20 year retirement plan to Douglas P. Hoering.

THE PRESIDENT: There's a home rule message at the desk. Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 420, by Senator Marcellino, Senate Print 5772, an act to amend the General Business Law, in relation to the conversion of home oil heating systems.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 423, by Senator Saland, Senate Print 1423, an act to amend the Executive Law, in relation to fees and expenses of the Department of State for certain services rendered.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 431, by Senator Skelos, Senate Print 402, an act to amend the Penal Law, in relation to the monetary standards that presently establish criminal mischief.

THE PRESIDENT: Read the last

section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 432, by Senator Saland, Senate Print Number 1436-A, an act to amend Chapter 505 of the Laws of 1985, amending the Criminal Procedure Law.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

442, by Senator DeFrancisco, Senate Print 4686-A, an act to amend the Criminal Procedure Law, in relation to the time limitations for speedy trial.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 444, by Senator Goodman, Senate Print 5743-A.

THE PRESIDENT: Lay aside, please.

THE SECRETARY: Calendar Number 450, by Senator Marcellino, Senate Print Number 6316.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: I'm sorry, Madam President. Forgive me for interrupting, but

could we ask for an immediate meeting of the Investigations and Taxation Committee in Room 332.

THE PRESIDENT: Yes. There will be an immediate meeting of the Investigations and Taxation Committee in Room 332.

The Secretary will read.

THE SECRETARY: Calendar Number 453, by Senator Maltese, Senate Print Number 256-A, an act act to amend the Real Property Tax Law, in relation to an optional school tax exemption for certain disabled veterans.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 2. This act shall take effect June 1st.

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 455, by Senator Larkin, Senate Print 1963, an

act to amend the Education Law, in relation to expanding student aid programs for Vietnam veterans.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 540, by Senator Hoblock, Senate Print 6378-A, an act to amend the Civil Service Law, in relation to voluntary transfer of state personnel.

THE PRESIDENT: Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 541, by Senator Hoblock, Senate Print 6624, an act to provide a retirement incentive for certain public employees.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 15. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

THE PRESIDENT: The bill is passed.

Senator Bruno, that completes the non-controversial calendar.

Senator Sears.

SENATOR SEARS: Yes, Madam President. On page 8, Calendar Number 92, Bill Number 1665-A, I'd like to have that bill starred, please.

THE PRESIDENT: The bill is

starred.

Senator Bruno? (Pause)

Senator Bruno, that completes the non-controversial calendar.

SENATOR BRUNO: Madam President, can we at this time take up Calendar Number 542.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Stafford moves to discharge from the Committee on Finance Assembly Bill Number 9536 and substitute it for the identical Calendar Number 542.

THE PRESIDENT: Substitution ordered.

THE SECRETARY: Calendar Number 542, Budget Bill, Assembly Print Number 9536, an act to amend Chapters 50 and 523 of the Laws of 1995, making appropriations for the support of government.

SENATOR BRUNO: Madam President, is there a message of necessity at the desk?

THE PRESIDENT: Yes, Senator

Bruno, there is.

SENATOR BRUNO: Move to accept the message.

THE PRESIDENT: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The message is accepted. Read the last section, please.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

THE PRESIDENT: The bill is passed.

SENATOR BRUNO: Madam President, can we at this time reconsider the vote on Calendar Number 420.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 420, by Senator Marcellino, Senate Print Number 5772, an act to amend the General Business Law, in relation to the conversion of home oil heating systems.

THE PRESIDENT: Read the last section.

SENATOR BRUNO: Madam President, can we at this time lay that bill aside for the day.

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration. )

THE SECRETARY: Ayes 49.

THE PRESIDENT: Lay the bill aside.

The Senate will remain at ease for a few moments while we wait for the reports of the committees.

(At 3:22 p.m., the Senate stood at ease until 3:26 p.m.)

SENATOR BRUNO: Madam President,

can we at this time return to reports of standing committees and hear the report on the Investigation and Taxation Committee from the esteemed chairman, Senator Roy Goodman.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Goodman, from the committee on Investigations, Taxation and Government Operations, reports the following bills:

Senate Print 5362-A, by Senator Skelos, an act to amend Chapter 704 of the Laws of 1991, amending the Arts and Cultural Affairs Law;

Senate Print 6596, by Senator Nozzolio, an act to amend Chapter 55 of the Laws of 1992, amending the Tax Law and other laws relating to taxes, surcharges, fees and funding.

All bills ordered directly for third reading.

THE PRESIDENT: Without objection, bills direct to third reading.

Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time take up Calendar Number 444.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 444, by Senator Goodman, Senate Print 5743-A, an act to amend the Penal Law, in relation to computer networks.

THE PRESIDENT: An explanation has been requested.

Senator Goodman.

SENATOR GOODMAN: Madam President, as we all know, technology has moved forward very rapidly in recent years and we now have a new phenomenon known as E-mail. For those of you who do not have personal computers and were not accustomed to E-mail let me briefly describe what is involved in this so that you can understand the background of the bill.

When you sit at your personal computer, you can send an E-mail message to any other computer owner anywhere in the world. For

example, if you happen to have a subscription to America On Line, it is possible for you to send mail within that system to any other possessor of an America On Line subscription with a personal home computer, so that as I sit at my computer at home, from time to time I've often received messages from my children in various other cities, or friends, and as I sit at my computer doing work, there is suddenly a chime that makes a b-r-r-ring noise, and it indicates that there is mail waiting. I then hit a few keys and I'm treated to a lovely message, normally replete with family sentiment, from one of my kids.

But, unfortunately, it is not always sweetness and light with respect to E mail. Just as the telephone has been used for purposes of harassment and the mails have been used for purposes of harassment, now we have the new phenomenon of computer harassment via the function of an E-mail personal computer operation.

The purpose of this bill is to

simply expand the current definition of the current law with respect to the communication by computer network to the crime of aggravated harassment in the second degree.

The bill defines "computer network" in Section 156 of the Penal Law. It amends Section 240 of the Penal Law by adding "computer network" to the list of other forms of communication. Currently, in Section 240.30 of the Penal Law, a person is guilty of aggravated harassment in the second degree with intent to harass and knowingly threaten harm to another person when they communicate or cause to communicate by mechanical electronic means by phone, telegraph, mail or any other written form of communication.

There is presently no definition of "computer network" in the Penal Law. By providing this one, this bill will protect people against the precisely same kind of harassment from which they are protected at the present time.

THE PRESIDENT: Senator

Paterson.

SENATOR PATERSON: Thank you, Madam President.

On the bill, we just wanted to verify what Senator Goodman just rather eloquently explained, that through the use of Section 240.30 of the Penal Law, he has delineated that there must be intent to harass and has raised in this piece of legislation the standard of what would be the elements that would constitute the crime of harassment.

We just wanted to make sure that they were there and that this was not a form of censorship. It's quite clear that it is there and it's fine. Thank you.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 3. This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57.

THE PRESIDENT: The bill is passed.

SENATOR BRUNO: Madam President, are there any other matters that should come before the Senate that is at the desk at this time?

THE PRESIDENT: No, Senator Bruno, there are not.

SENATOR BRUNO: There are not. Then there being no further business to come before the Senate, I move that we stand adjourned until 3:00 p.m. tomorrow.

THE PRESIDENT: Without objection, the Senate stands adjourned until Wednesday, March 27th, at 3:00 p.m.

(Whereupon at 3:32 p.m., the Senate adjourned. )