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ALBANY, NEW YORK

March 26, 1996

3:05 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

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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

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

11 THE PRESIDENT: Amen.

12 The reading of the Journal,
13 please.

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

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

22 Presentation of petitions.

23 Messages from the Assembly.

1 Messages from the Governor.

2 Reports of standing committees.

3 The Secretary will read.

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

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

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

14 Reports of select committees.

15 Communications and reports from
16 state officers.

17 Motions and resolutions.

18 Senator Farley.

19 SENATOR FARLEY: Thank you, Madam
20 President.

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

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

3 THE PRESIDENT: Amendments
4 received.

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

11 THE PRESIDENT: Amendments
12 received.

13 Senator Bruno.

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

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

21 Senator Bruno.

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

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

4 THE PRESIDENT: The Secretary
5 will read.

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

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

13 (Response of "Aye.")

14 Opposed nay.

15 (There was no response.)

16 The resolution is adopted.

17 Senator Onorato.

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

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

6 THE PRESIDENT: The enacting
7 clauses will be struck.

8 SENATOR ONORATO: Thank you.
9 Senator Bruno.

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

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

17 (Response of "Aye.")

18 Opposed nay.

19 (There was no response.)

20 The Resolution Calendar is
21 adopted.

22 Senator Bruno, are you ready for
23 the calendar?

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

4 THE PRESIDENT: The Secretary
5 will read.

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

11 THE PRESIDENT: Read the last
12 section, please.

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

15 THE PRESIDENT: Call the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 40.

18 THE PRESIDENT: The bill is
19 passed.

20 THE SECRETARY: Calendar Number
21 371, by Senator Seward, Senate Print 6141, an
22 act to amend the Public Service Law, in relation
23 to annual reports for gas, electric, steam and

1 water corporations.

2 THE PRESIDENT: Read the last
3 section, please.

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

6 THE PRESIDENT: Call the roll.
7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 40.

9 THE PRESIDENT: The bill is
10 passed.

11 THE SECRETARY: Calendar Number
12 386, by Senator Lack, Senate Print 5954.

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

15 THE PRESIDENT: Lay it aside,
16 please.

17 THE SECRETARY: Calendar Number
18 387, by Senator Seward, Senate Print 5997, an
19 act to amend the Tax Law, in relation to
20 extending the hotel and motel tax in Otsego
21 County.

22 THE PRESIDENT: Read the last
23 section, please.

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

3 THE PRESIDENT: Call the roll.
4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 40.

6 THE PRESIDENT: The bill is
7 passed.

8 THE SECRETARY: Calendar Number
9 397, by Senator Libous, Senate Print 4003-A, an
10 act to amend the Correction Law, in relation to
11 extending civil immunity to officers or
12 employees to the Office of Mental Health.

13 THE PRESIDENT: Read the last
14 section, please.

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

17 THE PRESIDENT: Call the roll.
18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 43.

20 THE PRESIDENT: The bill is
21 passed.

22 THE SECRETARY: Calendar Number
23 407, by Senator Holland, Senate Print 5072-A, an

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

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

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

8 THE PRESIDENT: Call the roll.
9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 43.

11 THE PRESIDENT: The bill is
12 passed.

13 THE SECRETARY: Calendar Number
14 420, by Senator Marcellino, Senate Print 5772,
15 an act to amend the General Business Law, in
16 relation to the conversion of home oil heating
17 systems.

18 THE PRESIDENT: Read the last
19 section, please.

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

22 THE PRESIDENT: Call the roll.
23 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 43.

2 THE PRESIDENT: The bill is
3 passed.

4 THE SECRETARY: Calendar Number
5 423, by Senator Saland, Senate Print 1423, an
6 act to amend the Executive Law, in relation to
7 fees and expenses of the Department of State for
8 certain services rendered.

9 THE PRESIDENT: Read the last
10 section, please.

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

13 THE PRESIDENT: Call the roll.
14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes 44.

16 THE PRESIDENT: The bill is
17 passed.

18 THE SECRETARY: Calendar Number
19 431, by Senator Skelos, Senate Print 402, an act
20 to amend the Penal Law, in relation to the
21 monetary standards that presently establish
22 criminal mischief.

23 THE PRESIDENT: Read the last

1 section, please.

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

5 THE PRESIDENT: Call the roll.
6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 44.

8 THE PRESIDENT: The bill is
9 passed.

10 THE SECRETARY: Calendar Number
11 432, by Senator Saland, Senate Print Number
12 1436-A, an act to amend Chapter 505 of the Laws
13 of 1985, amending the Criminal Procedure Law.

14 THE PRESIDENT: Read the last
15 section, please.

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

18 THE PRESIDENT: Call the roll.
19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 44.

21 THE PRESIDENT: The bill is
22 passed.

23 THE SECRETARY: Calendar Number

1 442, by Senator DeFrancisco, Senate Print
2 4686-A, an act to amend the Criminal Procedure
3 Law, in relation to the time limitations for
4 speedy trial.

5 THE PRESIDENT: Read the last
6 section, please.

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

9 THE PRESIDENT: Call the roll.
10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 47.

12 THE PRESIDENT: The bill is
13 passed.

14 THE SECRETARY: Calendar Number
15 444, by Senator Goodman, Senate Print 5743-A.

16 THE PRESIDENT: Lay aside,
17 please.

18 THE SECRETARY: Calendar Number
19 450, by Senator Marcellino, Senate Print Number
20 6316.

21 THE PRESIDENT: Senator Bruno.

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

1 could we ask for an immediate meeting of the
2 Investigations and Taxation Committee in Room
3 332.

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

7 The Secretary will read.

8 THE SECRETARY: Calendar Number
9 453, by Senator Maltese, Senate Print Number
10 256-A, an act act to amend the Real Property Tax
11 Law, in relation to an optional school tax
12 exemption for certain disabled veterans.

13 THE PRESIDENT: Read the last
14 section, please.

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

17 THE PRESIDENT: Call the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 49.

20 THE PRESIDENT: The bill is
21 passed.

22 THE SECRETARY: Calendar Number
23 455, by Senator Larkin, Senate Print 1963, an

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

4 THE PRESIDENT: Read the last
5 section, please.

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

8 THE PRESIDENT: Call the roll.
9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 49.

11 THE PRESIDENT: The bill is
12 passed.

13 THE SECRETARY: Calendar Number
14 540, by Senator Hoblock, Senate Print 6378-A, an
15 act to amend the Civil Service Law, in relation
16 to voluntary transfer of state personnel.

17 THE PRESIDENT: Read the last
18 section, please.

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

21 THE PRESIDENT: Call the roll.
22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 49.

1 THE PRESIDENT: The bill is
2 passed.

3 THE SECRETARY: Calendar Number
4 541, by Senator Hoblock, Senate Print 6624, an
5 act to provide a retirement incentive for
6 certain public employees.

7 THE PRESIDENT: Read the last
8 section, please.

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

11 THE PRESIDENT: Call the roll.
12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 49.

14 THE PRESIDENT: The bill is
15 passed.

16 Senator Bruno, that completes the
17 non-controversial calendar.

18 Senator Sears.

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

23 THE PRESIDENT: The bill is

1 starred.

2 Senator Bruno? (Pause)

3 Senator Bruno, that completes the
4 non-controversial calendar.

5 SENATOR BRUNO: Madam President,
6 can we at this time take up Calendar Number
7 542.

8 THE PRESIDENT: The Secretary
9 will read.

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

14 THE PRESIDENT: Substitution
15 ordered.

16 THE SECRETARY: Calendar Number
17 542, Budget Bill, Assembly Print Number 9536, an
18 act to amend Chapters 50 and 523 of the Laws of
19 1995, making appropriations for the support of
20 government.

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

23 THE PRESIDENT: Yes, Senator

1 Bruno, there is.

2 SENATOR BRUNO: Move to accept
3 the message.

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

7 (Response of "Aye.")

8 Opposed nay.

9 (There was no response.)

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

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

14 THE PRESIDENT: Call the roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 49.

17 THE PRESIDENT: The bill is
18 passed.

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

22 THE PRESIDENT: The Secretary
23 will read.

1 THE SECRETARY: Calendar Number
2 420, by Senator Marcellino, Senate Print Number
3 5772, an act to amend the General Business Law,
4 in relation to the conversion of home oil
5 heating systems.

6 THE PRESIDENT: Read the last
7 section.

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

11 THE PRESIDENT: Call the roll on
12 reconsideration, please.

13 (The Secretary called the roll on
14 reconsideration.)

15 THE SECRETARY: Ayes 49.

16 THE PRESIDENT: Lay the bill
17 aside.

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

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

23 SENATOR BRUNO: Madam President,

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

5 THE PRESIDENT: The Secretary
6 will read.

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

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

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

20 All bills ordered directly for
21 third reading.

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

1 Senator Bruno.

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

4 THE PRESIDENT: The Secretary
5 will read.

6 THE SECRETARY: Calendar Number
7 444, by Senator Goodman, Senate Print 5743-A, an
8 act to amend the Penal Law, in relation to
9 computer networks.

10 THE PRESIDENT: An explanation
11 has been requested.

12 Senator Goodman.

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

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

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

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

23 The purpose of this bill is to

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

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

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

23 THE PRESIDENT: Senator

1 Paterson.

2 SENATOR PATERSON: Thank you,
3 Madam President.

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

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

16 THE PRESIDENT: Read the last
17 section, please.

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

21 THE PRESIDENT: Call the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 57.

1 THE PRESIDENT: The bill is
2 passed.

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

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

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

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

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

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