NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 25, 2004

11:09 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

THE PRESIDENT: In the absence of clergy, may we bow our heads in a moment of silence, please.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 24, the Senate met pursuant to adjournment. The Journal of Sunday, May 23, 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.

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 Golden, Madam President, on page 77 I offer the following amendments to Calendar Number 1298, Senate Print 7290, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: Madam President, on behalf of Senator Nozzolio, I wish to call up his bill, Print Number 5926A, which was recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

756, by Senator Nozzolio, Senate Print 5926A, an act to amend the Highway Law.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: Madam President, I wish to call up Senator Kuhl's bill, Print Number 1876, which was recalled from the Assembly, and it is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 27, by Senator Kuhl, Senate Print 1876, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Madam President,

I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR FARLEY: Madam President, I offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FARLEY: On behalf of Senator Saland, Madam President, please place a sponsor's star on Calendar Number 1258.

THE PRESIDENT: So ordered. The bill will be starred at the sponsor's request.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there are substitutions at the desk, if we can make them at this time.

THE PRESIDENT: Yes, there are.

The Secretary will read.

THE SECRETARY: On page 4, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 5776 and substitute it for the identical Senate

Bill Number 4057, Second Report Calendar 1376.

On page 6, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 10968 and substitute it for the identical Senate Bill Number 6899, Second Report Calendar 1393.

On page 8, Senator Little moves to discharge, from the Committee on Rules, Assembly Bill Number 9483 and substitute it for the identical Senate Bill Number 2962, Third Reading Calendar 12.

On page 17, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 617C and substitute it for the identical Senate Bill Number 2514C, Third Reading Calendar 307.

On page 17, Senator Spano moves to discharge, from the Committee on Rules, Assembly Bill Number 6995E and substitute it for the identical Senate Bill Number 3129D, Third Reading Calendar 308.

On page 60, Senator Trunzo moves to discharge, from the Committee on Judiciary, Assembly Bill Number 9440 and substitute it for the identical Senate Bill Number 995A,

Third Reading Calendar 1110.

On page 61, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 7993A and substitute it for the identical Senate Bill Number 3894A, Third Reading Calendar 1120.

On page 74, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 10936 and substitute it for the identical Senate Bill Number 7234, Third Reading Calendar 1264.

On page 79, Senator Flanagan moves to discharge, from the Committee on Rules, Assembly Bill Number 10083 and substitute it for the identical Senate Bill Number 6690, Third Reading Calendar 1309.

On page 80, Senator Kuhl moves to discharge, from the Committee on Rules, Assembly Bill Number 10882 and substitute it for the identical Senate Bill Number 6377, Third Reading Calendar 1318.

And on page 84, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 10398A and substitute it for the identical Senate Bill

Number 6874A, Third Reading Calendar 1365.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar, with the exception of Resolutions 5136, 5175, and 5176.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is so adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could have Resolution 5176, by Senator Seward, read in its entirety and then move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Seward, Legislative Resolution Number 5176,

congratulating the Oneonta State Women's Soccer Team and Coach Tracey Ranieri upon the occasion of capturing the NCAA Division III Championship.

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

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

"WHEREAS, The Oneonta State Women's Soccer Team are the NCAA Division III champions; and

"WHEREAS, Oneonta State won its first national college championship since 1977 with a 2-1 women's soccer victory over the University of Chicago; and

"WHEREAS, After tying the score

with 29 seconds remaining in regulation, Oneonta State won the national title by scoring a goal two minutes and 54 seconds into overtime; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach Tracey Ranieri, a skilled and inspirational tutor, respected for her ability to develop potential into excellence; and

"WHEREAS, The team's overall record of 21, 1, and 3 is outstanding, and the team members were loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, The hallmarks of the Oneonta State Women's Soccer Team, from the opening game of the season to participation in the championship, were a sisterhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none; and

"WHEREAS, Athletically and academically, the team members have proven themselves to be an unbeatable combination of

talents, reflecting favorably on their school; and

"WHEREAS, Coach Tracey Ranieri has done a superb job in guiding, molding, and inspiring the team members toward their goals; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach Tracey Ranieri and these outstanding athletes have clearly made a contribution to the spirit of excellence which is a tradition of their school; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the Oneonta State Women's Soccer Team, and Coach Tracey Ranieri, on their outstanding season and overall team record, and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Oneonta State Women's Soccer Team and to Coach Tracey Ranieri."

THE PRESIDENT: Senator Seward.

SENATOR SEWARD: Thank you, Madam

President.

If you look up the word "excellence" in the dictionary, you will soon find the words "Oneonta State women's soccer" listed as the first definition. It's my pleasure today to stand and honor the women's soccer team of SUNY Oneonta for their pursuit of excellence and for their achievements. It's an outstanding group of women.

This is a team that, under the direction of Coach Tracey Ranieri, has been winning accolades for a long time. But that's been capped this past fall with their winning the national Division III NCAA championship. In fact, SUNY Oneonta hosted the final games of the championship tournament on their very excellent soccer facilities on campus.

Their overall record was 21, 1, and 3, and that last game, as the resolution indicates, was an exciting game. The outcome was in doubt right to the last seconds.

But this is an outstanding group of young women athletes who have brought credit not only to SUNY Oneonta but, because of their national championship, they bring credit to

the entire State of New York.

Here in the gallery today, we have the president of SUNY Oneonta, Alan Donovan; the coach, Tracey Ranieri, and her husband, David, who is also assistant coach of the team; as well as a number of team members who are joining us.

And I know that all of my colleagues join me in honoring this outstanding group of women and their coaches and the college of SUNY Oneonta. They do us proud.

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Congratulations and continued success to you.

(Applause.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, if we could have Resolution 5175, by Senator

Seward, read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Seward, Legislative Resolution Number 5175, commending James D. Donnelly, Jr., Principal of James A. Green High School, upon the occasion of his being named "National Principal of the Year."

"WHEREAS, New York State's commitment to education is unparalleled; and

"WHEREAS, Its illustrious history and stature is secured by the superlative caliber of its professionals and the students they inspire; and

"WHEREAS, James Donnelly, Jr., principal of James A. Green High School, Dolgeville, New York, has been named MetLife/NASSP/SAA New York State Principal of the Year. He will be honored at a New York State ceremony on September 16, 2003, and he will also be presented with an award and a grant, to be used to improve learning and opportunities in Dolgeville, at a ceremony in

Washington, D.C., on November 15, 2003; and

"WHEREAS, Launched in 1993, the MetLife/NASSP/SAA New York State Principal of the Year program annually recognizes outstanding middle-level and high school principals. Those honored are ones who have demonstrated extraordinary leadership, commitment to students and staff, service to their communities, and contributions to the overall profession of educational leadership; and

"WHEREAS, Each of the 50 states, the District of Columbia, and the Department of Defense Education Activity select one middle-level and one high school principal. From these state winners, six finalists -- three middle-level, three high school -- are selected and are eligible for the National Principal of the Year award; and

"WHEREAS, James Donnelly, Jr., received his recognition based on his ability to enhance the educational opportunities for his students. With a new code of conduct, there has been a significant decrease in attendance and discipline challenges. There

has also been a 70 percent increase in the number of Regents diplomas earned by graduating students since 1994; and

"WHEREAS, James Donnelly, Jr., began his administrative career in 1987 as assistant principal/social studies teacher at Gregory B. Jarvis High School. He became principal of the high school and the Herkimer County BOCES in 1988. In 1990, James Donnelly, Jr., became dean of students for New Hartford Senior High School. He has been principal at Dolgeville since 1993; and

"WHEREAS, Since James Donnelly, Jr., became principal of Dolgeville High School, he has successfully introduced the middle-school team concept, restructured from 42-minute classes to an 80-minute block schedule, developed an Advanced Placement Course program, and collaborated with Herkimer County Community College for Dolgeville students to earn up to 41 college credit hours; and

"WHEREAS, James Donnelly, Jr., introduced 'Certificates of Competencies' for the government, English, computer, and

economics programs, allowing seniors to graduate with certificates with their diplomas. He also developed a consortium of parents, businesspeople, community leaders, and area ministry to promote character education as a component of the overall high school experience. And he instituted a student recognition system for academic excellence; and

"WHEREAS, His leadership extends to his community, where he is a founding member of the Genesis Group, a business and civic effort to improve Mohawk Valley economic development, and chairman of the steering committee for the Mohawk Valley Energy Technology Corridor Consortium; and

"WHEREAS, James Donnelly, Jr., has been involved in professional organizations which include: National Association of Secondary School Principals, 1990 to present; School Administrator Association of New York State, 1990 to present; SAA New York State Legislative Government Liaison Committee, 1998 to present; SAA New York State Public Relations Policy Committee, 1993 to 1994; and

SAA New York State Professional Development Committee, 1994 to 1998; and

"WHEREAS, A 2002 state government reports labels Dolgeville a rural school district with high student needs in relation to district resources, yet James Donnelly, Jr., secured additional special education resources, Internet access for every classroom, and increased the emphasis on character education; and

"WHEREAS, Throughout his career, James Donnelly, Jr., has brought uncommon valor and wisdom to his role as educator. His distinguished career has been characterized by an impressive commitment, enthusiasm, and an uncompromising standard of excellence in all his endeavors; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor James D. Donnelly, Jr., principal of James A. Green High School, upon the occasion of his being named 'National Principal of the Year,' and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted

to James D. Donnelly, Jr., principal of James A. Green High School, Dolgeville, New York."

THE PRESIDENT: Senator Seward.

SENATOR SEWARD: Thank you, Madam President.

All of us in New York State can be very, very proud of the caliber and quality of the men and women who are responsible for educating our young people in our schools today, and particularly those who take leadership roles in our school buildings. And I'm very honored that the 51st Senatorial District is home to a high school principal who has received national recognition for his accomplishments.

James Donnelly is principal of the James A. Green High School in Dolgeville, New York, which is in Herkimer County. It's a relatively small rural school district, but he has done amazing things for that school district and the students and faculty and staff at that high school.

As the resolution outlines many of his accomplishments, he has brought forth that high school in terms of the improvement of not

only morale in the building, but real results in terms of test scores and the number of students receiving Regents diplomas when they graduate.

For these reasons and many others, it's very appropriate that Jim Donnelly be named Principal of the Year for the whole nation. And we're very, very proud of Jim and his accomplishments.

Jim, you have touched many, many lives, of young people and your staff, and for that this body pauses to congratulate you upon your honor. Congratulations.

(Applause.)

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

I also rise to salute Principal Donnelly. I know that you, as a former teacher, and as I was a former teacher in high school, going to law school, were always in awe of principals because they all have been our bosses.

But it's a tough job, it's something that is difficult. But to find out

that somebody from our area in particular is National Principal of the Year, that is really an outstanding award. We're very, very proud of you.

Incidentally, it's my understanding it's getting more and more difficult to get people to go into administration and become principals because it is such a difficult job.

We're very proud of you, Mr. Donnelly. We're very proud of what you've done for Dolgeville. And we wish you well, to you and your family and your students.

Thank you.

THE PRESIDENT: On the resolution, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Congratulations. Best wishes for continued excellence.

Senator Skelos.

SENATOR SKELOS: Madam President,

there's a resolution at the desk by Senator Larkin. If we could have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 5211, commemorating Memorial Day, May 31, 2004, in the State of New York.

THE PRESIDENT: On the resolution, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a resolution at the desk, 5136, by Senator Libous. If we could have it read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Libous, Legislative Resolution Number 5136, memorializing Governor George E. Pataki to proclaim May 25, 2004, as Senate Disabilities Awareness Day in the State of New York.

"WHEREAS, The New York State Senate Select Committee on the Disabled is sponsoring the 24th Annual Senate Disabilities Awareness Day in Albany, New York; and

"WHEREAS, Members of this Legislative Body have selected residents from their districts who embody the celebrated spirit of perseverance and determination to achieve through adversity, to be honored as 2004 Senate achievers; and

"WHEREAS, In addition, a technology fair will be held with exhibitors from across the state displaying their programs; and

"WHEREAS, It is the sense of this Legislative Body that persons with disabilities merit our recognition as they realize the goals of inclusion and equality in our communities and society at large; and

"WHEREAS, It is the intent of this Legislative Body to recognize persons with

disabilities, accentuating in turn the benefit to New York State of their contributions to our economic, educational and social growth; and

"WHEREAS, Senate Disabilities Awareness Day so clearly labors for the positive and salutary definition of the communities of the State of New York; and

"WHEREAS, Senate Disabilities Awareness Day provides individuals with an opportunity to acknowledge and understand the legislative process; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor George E. Pataki to proclaim May 25, 2004, as Senate Disabilities Awareness Day in the State of New York, fully confident that such procedure mirrors our shared commitment to the efflorescence of human dignity; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Honorable George E. Pataki, Governor of the State of New York, and selected representatives of persons with disabilities."

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

First off, before I speak on the resolution, I want to welcome our interpreter, Karen Weiden, who is here with us today in the Senate chamber.

And, Madam President, I would also like to offer the resolution for cosponsorship by all of my colleagues. And if I could do that at this time too, and make sure that all their names be put upon this resolution.

Today is a very special day and a day that I get very excited about. It is the 24th annual Senate Disabilities Awareness Day. And it is a day that I have participated in for 16 years now, as I begin my 16th year in the Senate. And it has helped me become a better person, it has helped me become a better legislator, and also understanding the needs of people with disabilities.

Today we had the third annual Senate Achievers Award Day. And in the chamber with us, and in the galleries, we have many of our achievers who received awards and

are here. And they have led some pretty remarkable lives.

We have achievers that have done some outstanding things, like Michael Watson, who is a quadriplegic, but he is employed as a dispatcher for the Corning Police Department.

And of course Gwen Allard, who runs a program to help individuals with disabilities enjoy recreational activities and skills.

I have a gentleman with me today on my right side who is retired Corporal Daniel Bush, who is a remarkable young man who serves as the assistant coordinator for veterans services in Broome County. Corporal Bush was in Albania helping to free folks from the American Embassy, and unfortunately a bunker came down upon him, about two tons of bunker, and left him disabled.

But that didn't stop him, and it didn't stop any of the individuals in this room, because there are a lot of stories like Corporal Bush's. And it's important that as legislators and as New Yorkers we take time out every year to honor their achievements, to

recognize that individuals with disabilities have the same opportunities, the same rights, the same purpose for goals, to live as normal a life as anyone does.

And oftentimes we take that for granted. As a matter of fact, most of the time those of us who have no disability at all take it for granted.

As chairing the Committee on Mental Health and Developmental Disabilities for the last 12 years, I have become uniquely aware and very sensitive to the plight of people with disabilities and how as a legislative body we need to continue to do more.

We have done so much under Senator Bruno's leadership, under the support of all of you, but we need to go much further. We need to make every day an awareness day, an opportunity day so that people with disabilities have the same opportunities that every New Yorker has.

You know, Henry Holden was a guest here a number of years ago. Henry was an actor. You may have seen him back in the '70s in a variety of shows, and he was disabled.

And Henry basically said this, and I believe that this is something that we should all keep in our mind as we move forward in helping people with disabilities. But Henry's words were: "Attitudes are the only real disabilities." And isn't that true. Attitudes are the only real disabilities.

Before I conclude on my remarks, because I'm sure some of my other colleagues would like to speak, I want to thank all of our achievers. I want to say congratulations and how proud I am personally of each and every one of you, and of your accomplishments. Your accomplishments have made a great awareness to me as an individual and helped me in my life, and for that I want to say thank you.

For those who are in the gallery who are visiting today, if you go into the Well of the Legislative Office Building, there are a number of displays that will be up until 2 o'clock, and there's a booklet. Please pick up a copy of the booklet, because in there is a biography on each of our achievers and their accomplishments.

Thank you, Madam President.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Madam President, today marks another milestone on a journey that the entire community of special citizens in this nation have been traveling.

In 1990, the Americans With Disabilities Act passed, to huge controversy -- what was it going to cost, how was it going to be done, could we maintain it. And yet we've seen, along this path and this journey, that acceptance, tolerance, appreciation have been the true values and benefits of that legislation.

I'd like to applaud Senator Libous for his steadfast commitment to this day and to the people who make it so special. But another journey takes place every day, and this is my window on the world, if you will, of the Americans With Disabilities Act.

I have a constituent who's here in the chamber today, wheelchair-bound, travels from New Hyde Park every day from his house to the train station, gets on the train, takes a train into Penn Station, and operates a

shoeshine business in the heart of Penn Station, then gets on the train, goes back home and is a trustee in the Village of New Hyde Park.

Now, I think that I have a lot of challenges in my day, or at the end of the day I'm a little tired. Nothing like this gentleman. He does it without complaint, he does it every day, and he's one of the happiest people I've ever met. He's with us today, Don Barbieri.

And by the way, I apologize, because I know by mentioning one name -- you're all champions, you all have so much to contribute to this state.

But it reminds me of his personal journey, it reminds me of the greater journey that all of us have had in this very special and important occasion.

Thank you, Madam President.

THE PRESIDENT: On the resolution, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

And best wishes on behalf of the Senate to each and every one of our guests.

(Standing ovation.)

THE PRESIDENT: Senator Marchi.

SENATOR MARCHI: I want to apologize, having this as a postscript. She anticipated, and she heard the clapping. And had I made my motion a little earlier, it would have been embodied in the eloquent statement that was made by the chairman of the committee, who has a very sensitized feeling about people with mental disability and that the means exist to respond to it in a very constructive way.

Of course, our chairman here was a successor to Warren Anderson in this floor, and I just wondered what could he possibly do to -- and he sensitized us all to the subject of his concern. And you folks are included.

We have someone from Staten Island, Mary Guardino, who has a very distinguished background. And I would just move to have her

name included with the same force and effect that was applied to others. National mental health society advocacy leader for over 20 years, working to ensure effective care and services for the mentally ill and enhance public awareness, reduce the stigma associated with mental illness and facilitate the acquisition of treatment.

She has excelled and holds a distinguished position as chairman, founder and executive director of the national nonprofit mental illness advocacy organization.

So you can revel in the fact, Mary, that you are bathing in the love and estimation that emanated from this body, also for you, because you have operated in a field that is not difficult to approve but then very difficult to implement. Because there are answers that can be provided, there are remedies that can be availed of that provide a very valued answer in a return to a normal life.

So we want to congratulate you too. Everything that was said is with full force

and effect in your favor.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator.

Any member who does not wish to sponsor the last resolution, please notify the desk.

Senator Paterson.

SENATOR PATERSON: Madam President, I will not delay the proceedings any longer. Actually, I'd have been here sooner, but I couldn't find the chamber.

(Laughter.)

SENATOR PATERSON: So I guess I'm eligible under the Disabilities Act.

But I wanted to commend Senator Libous, all the advocates for coming here as they do every year, and for improving the lives of so many New Yorkers who have a lot to offer.

The population of blind people who are working in this country is 29 percent. The population of hearing-impaired or deaf people working is 10 percent. The population of ambulatory disabled people working is

41 percent.

We have tremendous resources, a group of people better educated than the average member of society, but with almost no wages and no real support. If we can pool our efforts and collaborate on the opportunities for them to receive the same things that we want -- a decent opportunity in education, which they get and they do well, but then a decent opportunity of employment and to receive health care and to establish housing -- then I think we will have done a lot to fulfill what our commitment is to all New Yorkers.

And it's in that vein that Senator Libous and many others have been able to create a very significant improvement. It's not where we want to be, but it's certainly a lot better than what we've done. And we hope that they enjoy their trip to Albany and that we learn from them and from each other.

Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, just a reminder to all our guests that are

still in the chamber that there will be a luncheon at 12:00 noon -- 12:00 noon, Senator Libous -- in the Well.

And of course, on behalf of Senator Bruno, we welcome all our friends to the chamber.

And, Tom, I just want to say great job. It's just a wonderful, wonderful day and a day that I think is the nicest day in Albany. So we welcome all of our guests.

If I could call an immediate meeting of the Finance Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 841, by Senator Hoffmann, Senate Print 181, an act to amend the Penal Law, in relation to

inciting.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 2. Senators Duane and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1036, by Senator Breslin, Senate Print 5357A, an act authorizing the Little Red School House Historical Society.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is

passed.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe we missed Calendar Number 593.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 593, by Senator Rath, Senate Print 5285, an act to amend the Domestic Relations Law, in relation to children born to a married couple by any means of assisted reproduction.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 802, by Member of the Assembly Rivera --

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

THE PRESIDENT: The bill is laid

aside for the day.

THE SECRETARY: Calendar Number 1093, by Senator DeFrancisco, Senate Print 6987, an act to amend the Estates, Powers and Trusts Law, in relation to the right of election.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1119, by Senator Volker, Senate Print 3506, an act to amend the Penal Law, in relation to trespassing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1128, by Senator Golden, Senate Print 6544 --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1129, by Senator Little, Senate Print 6573, an act to amend the Criminal Procedure Law, in relation to authorizing defendants.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1131, by Senator Flanagan, Senate Print 6649,

an act to amend the Penal Law, in relation to the period of probation for public lewdness.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1139, by Senator Nozzolio, Senate Print 3830A, an act to amend the Correction Law, in relation to merit time eligibility.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect September 1, 2004.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1147, by Senator Balboni, Senate Print 3579, an act to amend the Penal Law, in relation to nuclear-powered electric generating facilities.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1160, by Senator McGee, Senate Print 6184, an act to amend the General Municipal Law, in relation to authorizing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1165, by Senator Flanagan, Senate Print 6682A, an act to authorize St. Luke Lutheran Church to file an application.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Bonacic recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1167, by Senator Little, Senate Print 6877, an act to amend the Local Finance Law, in relation to advance refunding.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1300, by Senator Robach, Senate Print 7305, an act to amend Chapter 63 of the Laws of 2004, amending the Civil Service Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1304, by Senator Robach, Senate Print 6729, an act to amend the Executive Law, in relation to facilities.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 485, by Senator Saland, Senate Print 5940B, an act to amend the Alcoholic Beverage Control Law and the Vehicle and Traffic Law, in relation to sale.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1280, by Senator Skelos, Senate Print 5302B, an act to amend the Civil Service Law, in relation to reduction.

THE PRESIDENT: There is a home-rule message at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1363, by Senator Skelos, Senate Print 7258, an act to authorize the Lynbrook Fire Department Emergency Medical Company No. 1 to file an application.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Madam President,

there will be an immediate meeting of the Corporations Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Corporations Committee in the Majority Conference Room.

Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President. I'd ask consent to reconsider Senate Bill 5357A, by Senator Breslin. I'd like to be recorded in the negative, please.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1128, by Senator Golden, Senate Print 6544, an act to amend the Penal Law.

SENATOR SCHNEIDERMAN:

Explanation.

THE PRESIDENT: Senator Golden, an explanation has been requested.

SENATOR GOLDEN: Thank you, Madam President.

In New York City, with the MetroCard in place, with these new machines that we have outside the token booths, with no token booths, the token booths are closed, what you see are people purchasing these MetroCards through these machines and then entering into the train station to go to their destination.

There's no help down there, there is no assistance. And if those machines are broken, you're lost. You have to find another train station, a cab, a bus.

And what we find out is we have the professional thief or the professional crook that is downstairs jamming these machines, breaking these machines, playing with the cards themselves, the swipe cards, so they can get more rides on those swipe cards and then selling those swipe cards to the unsuspecting tourist or to the individual who has to get to

and from work.

So at the city's request, we're trying to limit those machines being broken and limit those -- that new enterprise that has started down in the train station, by moving this to a misdemeanor. When it is a summonsable offense, there is no way of tracking it, there's no way of knowing who is committing these crimes.

By moving it to a misdemeanor allows us to track it, allows us to know who's doing it, and it also gives us the opportunity to find out what other crimes may be going on in the system as well.

We are hoping that this bill will get passed through the Senate here and through the Assembly so that we can (a) allow the people to move through the system easier and their passes to work, but also to increase revenues for the city and state of New York because those are lost revenues when those people sell those cards in the train stations. And that's lost revenue to the city and to the state, and we're looking to put a stop to that.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. Through you, if the sponsor would yield for a question.

THE PRESIDENT: Senator Golden, will you yield for a question?

SENATOR GOLDEN: I do.

THE PRESIDENT: You may proceed, Senator.

SENATOR SCHNEIDERMAN: I appreciate the seriousness of the problem this legislation is intended to address. It is certainly a problem in my district. But I just wanted to make sure that it is not interpreted in an overly broad way.

Would this apply to an individual who simply is selling their leftover rides on their MetroCard to someone they know?

I mean, if they're engaged in, you know, a transaction, they have a friend who needs a MetroCard or there is someone leaving New York who wants to sell their MetroCard, would they be subject to the penalty of a misdemeanor for a single sale of a MetroCard

under this bill?

SENATOR GOLDEN: No.

And there's also the other side of that coin, where you have a tourist here that's here and that person is leaving that day and has that MetroCard, would we charge that person with a misdemeanor for selling his or her card if they were leaving the city. The answer is no.

And this is for multiples. And hopefully we can put an end to the criminal activity of some of these criminals that make $800 a day at the expense of New York City and New York State.

SENATOR SCHNEIDERMAN: Thank you.

And through you, Madam President, if the sponsor would yield for one more question.

THE PRESIDENT: Senator, will you yield for a question?

SENATOR GOLDEN: I do.

THE PRESIDENT: You may proceed, Senator.

SENATOR SCHNEIDERMAN: Just to make sure this is clear on the record, since

we use shorthand, the reference to "multiples" means multiple sales or transactions in a MetroCard. This would apply to more than one transaction, presumably. Is that correct?

SENATOR GOLDEN: Yes, Senator.

SENATOR SCHNEIDERMAN: Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR SCHNEIDERMAN: I'm going to support this legislation. But I would urge my colleagues that what we're seeing here is the beginning of a series of very, very serious unintended consequences as a result of the MTA's current program.

The MTA is dead set on a program to shut down token booths, have clerks wandering around on the platform, make the public rely on MetroCard machines and turnstiles without the presence of any sort of transit employee.

And I think we are going to see more problems like this. And I would urge that in a time when we are very concerned about public security, we really need to use whatever leverage we have with the MTA to try

to get them to reverse course.

Token booth clerks present near turnstiles are the most cost-effective crime prevention and terrorism prevention mechanism we have. The MTA is moving to restrict those. The MTA is moving to automate under circumstances where automation invites this sort of conduct.

And we shouldn't put the burden on our police officers to have to police a problem that doesn't have to exist, that exists because the MTA has this program of automation. They're going to save a little bit of money by reducing the number of employees, but the problems that are going to be created are going to be severe.

If you were in a subway station and someone had a medical emergency or there was a crime or there was a terrorist incident, you would like to have a token-booth clerk in an identifiable location with an emergency button. The MTA's program that has created the problem addressed by this bill is designed to remove the token-booth clerks from those facilities. It will make our stations less

safe; it will make our stations less convenient.

And I'm afraid that as much as this particular bill may give our police officers a method of addressing a very specific problem, I think these sorts of activities will continue as long as we have a program of automation under circumstances in which it really cannot function properly.

So I'll support this bill, but I would urge all of my colleagues that we're going to be seeing more issues related to the MTA's program as we go forward.

Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard?

Then the debate is closed.

Read the last section.

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, 56. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is

passed.

Senator Duane.

SENATOR DUANE: Thank you, Madam President.

I apologize, I was out of the chamber at a committee meeting. And so I want to record some negative votes, if I may have unanimous consent. Calendar Number 593, 1119, 1128 -- we just did that, excuse me -- 1129, and 1139.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative, Senator Duane.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President, I would like unanimous consent to be recorded in the negative on Calendar 1139.

THE PRESIDENT: Hearing no objection, you will be so recorded as voting in the negative.

SENATOR MONTGOMERY: Thank you.

THE PRESIDENT: Senator Skelos,

that completes the controversial reading of the calendar.

SENATOR SKELOS: Thank you, Madam President. If we could return to reports of standing committees, I believe there's a report of the Finance Committee at the desk. I ask that it be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following bills:

Senate Print 7338, by the Senate Committee on Rules, an act to amend Chapter 405 of the Laws of 1999;

And Senate Print 7339, by the Senate Committee on Rules, an act to provide a quarterly authorization.

Both bills ordered direct to third reading.

THE PRESIDENT: Both bills are ordered directly to third reading.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could just stand at ease.

THE PRESIDENT: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 12:00 p.m.)

(Whereupon, the Senate reconvened at 12:07 p.m.)

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1406.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1406, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 11282 and substitute it for the identical Senate Bill Number 7338, Third Reading Calendar 1406.

ACTING PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1406, by the Assembly Committee on Rules, Assembly Print Number 11282, an act to amend Chapter 405 of the Laws of 1999.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT WRIGHT: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT WRIGHT: All in favor of accepting the message of necessity please say aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The message is accepted.

Read the last section.

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

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT WRIGHT: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: Well, Mr. President, this bill provides a 30-day

extension for Quick Draw and the Loft Law. That's all. Period.

ACTING PRESIDENT WRIGHT: Senator Schneiderman.

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

These are language bills to accompany the appropriation extender that we voted on yesterday. And we're extending Quick Draw and the Loft Law.

Once again, I strongly object to our continuing with this passive approach to solving our state's budget problem. We are extending Quick Draw until June 30th and the Loft Law until June 30th as we break for yet another recess.

Again, Senator Paterson has urged that we stay here until we're finished. We are happy to work on whatever outstanding issues there are. We had a discussion yesterday about our conferences having identified funds for school funding. And Senator Skelos rightly pointed out that we should have a funding formula if we're going to solve the problem, so I'm sure we will be

responding to that question.

But once again, this process of extending the budget and extending the budget, keeping the pressure off with no noticeable progress on the substantive issues that affect our state, I find completely objectionable.

It puts a challenge to members because a lot of people don't want to vote against an extension of Quick Draw or certainly not against an extension of the Loft Law. But this process is objectionable. We have been voting no to these temporary extenders in the past.

In this case, we're talking about one program a lot of people don't like and one program a lot of people don't think should be held hostage at all to this process, the Loft Law.

But I will once again be voting no, because I think we -- until we're putting the effort in that our constituents deserve in the quest to pass a state budget on time, or not too late, I don't think we should be going through this process of temporary extenders.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Any other Senator wishing to speak?

Senator Padavan.

SENATOR PADAVAN: Yes, Mr. President, to explain my vote.

If you read the report I sent to you a couple of weeks ago, there was a whole section on Quick Draw. It talks about the addictive nature of this game and why we oppose it from the outset, why it's been so destructive, why it has created more problems than benefits despite the revenues that are mentioned in the supporting memoranda. And so therefore I will continue to oppose it.

At the same time, I wish to make it as a matter of record that I am fully in support of the Loft Law continuation, and I've always said so and will continue to do so.

Thank you, Mr. President. I vote no.

ACTING PRESIDENT WRIGHT: Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Mr. President.

I too have some very strong

feelings about these two issues being tied together. They have no correlation and no relationship, and I feel strongly that the Loft Law should not be held hostage with Quick Draw.

The Loft Law is very important to most of us in the City of New York. And many of us are just about ambivalent about the Quick Draw, or we oppose it. And as long as the two of them are tied together, I will be voting in the negative.

ACTING PRESIDENT WRIGHT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you. Briefly on the bill.

I share my colleagues' concerns about the tying together of these two separate issues.

And also, after a day yesterday where I think we all felt proud of the fact that we are moving forward on budget reform and the commitments that we had made to the people of New York, to be to some degree straight-shooters here in the Legislature about what our goals were and what we were

hoping to accomplish, it is disturbing to just the next day discover that we are right back at the shenanigans that we have become infamous for.

Why would we deal a one-month extender on an important bill, on the Loft Law, where people's homes are at stake and now they must float through another month hoping we address this fundamental issue? And we all know what we're going to do on that bill, and yet we instead use it as a holdout hostage with the Quick Draw bill, which many people disagree with.

And I appreciate Senator Padavan's fine work on this and the issues that he's raised about the specific addictions of the Quick Draw program and the impact it's having on people.

And so I will vote no on this bill. I am very disturbed that we yet again hold these two issues together as hostages for each other.

And again, I was hoping yesterday might be the beginning of a new approach in this house to how we dealt with budget and

legislative issues. And unfortunately, today reflects that we need to go back to our training for this.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, I hear this negative debate about Quick Draw for the umpteeumpth time. I never see those individuals who are the recipients of funding for their school districts or whatever else.

About four years ago in this chamber, we said if you want to have Quick Draw, you've got to invest in your facility, you've got to have 40 percent being food, not just alcohol. And a lot of these young men and women went out and borrowed money, and then they had to start paying it back.

In 1999, we shut them down for almost four months. Nobody helped them pay their bills. They had no access to make this mortgage payment out of the money that they borrowed in order of support of Quick Draw.

Quick Draw generates about $168 million that goes into the budget, that goes into education. Is Quick Draw the answer to all of our problems? No. But should we take the people we asked to be a partner with us in fixing some of our shortfalls, should they be punished once again?

If we shut down Quick Draw, sure, people will say we'll stop this scratch gambling, we'll stop it. You nor I will never stop gambling in this state. At least we have some way of controlling something. But you'll see gambling on sidewalks, street corners, pool halls, you name it.

We have a legitimate business. Here we have people who sell Quick Draw. It helps them pay for their business; it helps them pay for their employees. I went to a place on Saturday and I said, What would happen?

He said: "You see these four girls here, these ladies that are working here? The moment you fail to do it, I'll fire them and I'll tell them to send their bills to the New York State Legislature."

Let's wake up and be responsible.

ACTING PRESIDENT WRIGHT: Any other Senator wishing to speak?

Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1406 are Senators Duane, L. Krueger, Montgomery, Padavan, Paterson, Sabini, Schneiderman, A. Smith, and Stavisky. Ayes, 48. Nays, 9.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, before we take up the next bill, I just want to mention to the members of the Majority that there will be a conference following session.

If we could take up, now, Calendar Number 1407.

ACTING PRESIDENT WRIGHT: There will be a Majority conference following

session.

The Secretary will read.

THE SECRETARY: In relation to Calendar Number 1407, Senator Johnson moves to discharge, from the Committee on Finance, Assembly Bill Number 11283 and substitute it for the identical Senate Bill Number 7339, Third Reading Calendar 1407.

ACTING PRESIDENT WRIGHT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1407, by the Assembly Committee on Rules, Assembly Print Number 11283, an act to provide a quarterly authorization for the state's consolidated local street and highway improvement program.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT WRIGHT: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT WRIGHT: All in

favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed?

(No response.)

ACTING PRESIDENT WRIGHT: The message is accepted.

Read the last section.

THE SECRETARY: Section 2. This act --

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT WRIGHT: Senator Johnson, an explanation has been requested.

SENATOR JOHNSON: We have had a consolidated highway improvement program in this state for many years. The Governor has proposed approximately $242 million for the -- in his budget.

This is a quarterly payment, one-quarter of the amount appropriated by the Governor, for towns, villages, cities and counties, et cetera.

ACTING PRESIDENT WRIGHT: Senator

Schneiderman.

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

I'd like to thank the sponsor for his explanations.

And I unfortunately think that this bill reflects more clearly than pretty much any other that we've passed so far in this piecemeal process of constantly extending programs and extending the budget as we really avoid taking responsibility for our inability to pass a complete budget.

This legislation is essentially a serious cut to the Consolidated Highway Improvement Program. The Governor proposed a significant cut, $35 million out of a $241 million budget, and this is an allocation consistent with the Governor's proposal.

So now what we're faced with here is not some abstract harm. What we're faced with here is critical highway programs that are going to be underfunded.

And this is not a situation, I would urge my colleagues, where providing more money later in the year necessarily can remedy

the problems. There are projects underway. And as we all know, justice delayed is sometimes justice denied. Well, funding delayed is frequently funding denied if you're a local government trying to contend with these problems.

I'm going to vote no again. Once again, my colleagues, I urge you, we have to do better than these piecemeal extensions. This one, in addition to objecting to the process, does the substantive harm of putting into effect the Governor's very, very shortsighted cuts to a program that is critical as we drive around the state. And certainly particularly in the poorer communities in this state, we are in need of a lot of road repair and highway reconstruction.

So I'm going to vote no again and urge all my colleagues to do the same.

ACTING PRESIDENT WRIGHT: Any other Senator wishing to speak?

Read the last section.

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

ACTING PRESIDENT WRIGHT: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: What has me so very upset about this CHIPS bill is as an ex-mayor, I can tell you I was very reliant on the CHIPS funding. That stands for Consolidated Highway Improvement Program.

And for our local roads, without CHIPS funding it is almost impossible to keep them maintained. And I don't have to tell any of you what this past winter has done to the potholes. And they're not potholes, they're like sinkholes right now. Your whole car goes into them.

So I don't know what will happen at the local level to our roads without maintenance of the funding of CHIPS that we've had in the past. Which has been inadequate in the past, and cutting it is just not tolerable.

I'll be voting no.

ACTING PRESIDENT WRIGHT: Senator Oppenheimer recorded in the negative.

Senator Johnson.

SENATOR JOHNSON: I'd like to speak on this bill for a moment.

If 80 percent of the amount you want is not enough, zero percent is even less. So anybody who votes no obviously doesn't want any money to go to their municipality for the next 90 days for highways and so on.

I think it makes sense to vote for this bill and work together when we put the budget together to get the money back that you think you should have, which I think we should have, which we will get back.

Thank you.

ACTING PRESIDENT WRIGHT: Senator Johnson recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1407 are Senators Breslin, Duane, L. Krueger, Oppenheimer, Paterson, Sabini, Schneiderman, and Stavisky. Also Senator A. Smith. Ayes, 49. Nays, 9.

ACTING PRESIDENT WRIGHT: The

bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, earlier today we adopted a resolution by Senator Larkin concerning Memorial Day. With the consent of the Minority, we'll put all members on the resolution.

If anybody wishes not to sponsor the resolution, they should notify the desk.

Is there any housekeeping at the desk?

ACTING PRESIDENT WRIGHT: There is none.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Tuesday, June 1st, at 3:00 p.m., intervening days being legislative days.

And there's an immediate meeting of the Majority in the Majority Conference Room.

ACTING PRESIDENT WRIGHT: On motion, the Senate stands adjourned until Tuesday, June 1st, at 3:00 p.m., intervening days being legislative days.

Reminder, there is a Majority

conference immediately following session.

Senate is adjourned.

(Whereupon, at 12:25 p.m., the Senate adjourned.)