NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:10 p.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: With us this afternoon to give the invocation is the Reverend Stan Key, pastor of Loudonville Community Church in Loudonville, New York.

REVEREND KEY: Let's pray together.

Father, we don't pray to You simply out of habit, we pray to You because we have need of You.

We invite You to cleanse our hearts so that our minds can be clear to think thoughts that are pleasing to You, to make decisions that will be pleasing to you. Help us, as men and women, to act as those who will one day give an account.

We thank You for those gathered here, for their lives, for their families, for

their desire to be servants, remembering those words of Jesus when he said, "The greatest among you are those who serve."

Help us in these moments. We ask it in Jesus' name.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 9, the Senate met pursuant to adjournment. The Journal of Sunday, May 8, 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 DeFrancisco, from the Committee on Judiciary, reports the following nominations.

As a judge of the Ulster County

Family Court, Steven Nussbaum, of New Paltz.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I rise to move the nomination of Steven Nussbaum, of New Paltz, as a judge of the Ulster County Family Court.

We had a Judiciary Committee meeting earlier today where soon-to-be Judge Nussbaum appeared and was unanimously recommended to this full body for the position to which he was nominated by Governor Pataki.

I personally met with him for a short time before the meeting. So he's definitely a man of superior intellect. His resume is incredible, dealing with issues that he will face every day as a judge of the Family Court.

I'm proud to move his nomination. And I would ask Mr. President to please recognize Senator Bonacic to second the nomination.

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr.

President.

I rise in support of the nomination of Steven Nussbaum as a judge of the Ulster County Family Court. He's joined today by his bride, Lauren; his stepdaughter, Alanna; his son, Eli; his mom and dad, Allan and Vivian; his brother, David; and his aunt and uncle, Roberta and Stephen Nash.

This is a good start, Steve, because if ever someone should ever think of running against you in November, you just bring all the family out, and I know you're going to do very well.

But on a serious side, Steve has had an exemplary and distinguished legal career. He's been practicing law for 17 years, and his signature has been the Family Court. He's had over 2,000 cases that he has handled personally. He has been honored by the Ulster County Bar Association as law guardian in the year 2001.

And I know that he's going to make an outstanding Family Court judge, and I also support the unanimous approval of the Judiciary Committee. And I will be voting for

his confirmation today.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The question is on the confirmation of Steven Nussbaum, of New Paltz, as a judge of the Ulster County Family Court. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Nussbaum is with us today in the gallery.

Judge, we wish you well with your very important duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Marcia P. Hirsch, of Rockville Centre.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'm also proud to rise to move the nomination of Marcia Hirsch for the position of Court of Claims judge, also an extremely accomplished individual who has finished undergraduate work in three years rather than four, finished law school in two and a half years rather than three, while she was working at the time, has a record, if you haven't read her resume yet, of government service second to none. Another incredible nominee that the Governor has passed on to us.

She is joined by many, many people, once again. Fortunately, she doesn't have to run for election, which is always a good thing. But she has her husband, Ned Hirsch, who had an excellent law school education; daughters, Allison and Hillary; parents, Adele and Ed Podgorski; sister and brother-in-law Janine and Roland Guilz; sister-in-law Carolyn Podgorski; mother-in-law, Lydia Hirsch; Rabbi Abraham Blum -- it's always good to have a rabbi with you on an occasion like this -- friends Marie and Peter Forgach and Meri and Mark Mason.

Once again, it's an incredible nominee. And we're very fortunate that both of these individuals would be willing to serve in these important judicial positions. They'll clearly serve as wonderful representatives for the people.

Ms. Hirsch has -- it was mentioned at the Senate Judiciary Committee that she has an incredible temperament, an individual who will listen to both sides and make sure that the decision is fair.

Mr. President, I would request that you recognize Senator Skelos to second the nomination.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Thank you very much, Mr. President. I'm delighted to rise in seconding the nomination of Marcia Hirsch, one of my neighbors in Rockville Centre.

I mentioned in the Judiciary Committee meeting that she, as Senator DeFrancisco mentioned, that she graduated college with a four-year degree in three years -- my son is in his fifth year of a

four-year program -- and law school in two and a half years.

And certainly I know your parents are very proud of you, but also the savings that were incurred by your graduating so soon.

Just a distinguished academic career. Private practice, public service. Really the combination and mixture of experience, of life's experience that will make Marcia a -- and I'm going to -- this is one of the last few times I'm going to be able to call you Marcia; now we have to call you "Judge" -- but that Marcia has that will bring the right temperament as a judge of the Court of Claims.

But what's most important to me is the fact that she has been so involved within our Rockville Centre community, serving as president of the Rockville Centre school board -- recently, obviously, announcing her retirement as she becomes a judge -- served as a school board member for nine years, very involved with special education, Parent Teacher Association member, active with the St. Agnes parish, part of the Building Fund

volunteer. Just a good person.

So I just want to thank the Governor for this fine nomination.

And again, as I mentioned in the Judiciary Committee, whether it was general counsel for the Division of Housing or as a judge of the Court of Claims, these are positions that Marcia did not go after. Her qualifications, her ability, her personality, her temperament drew people to her and asked her to serve in these positions.

So I'm delighted, and I see Ned beaming up there, absolutely beaming with pride, parents so happy. And I'm just delighted to be able to second your nomination. Congratulations.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. I also rise to second the nomination of Marcia.

I want to go back to her roots a little bit. Although she's cut quite a swath in Long Island, she does come from Rotterdam, New York, which is in Schenectady County, from

a remarkable family.

She graduated magna cum laude and Phi Beta Kappa from Union College, right near where I live -- where my daughter, who's also a lawyer, also graduated from -- and went on to Syracuse University for a remarkable academic career.

But, you know, so many things that are happening today are happening with women in the area of law. Back when I was in law school, back with Abe Lincoln and way back there, there were almost very few or no women in law school.

Were any in your law school, John Marchi? I don't know. But they were rare.

SENATOR DeFRANCISCO: They didn't have running water then.

SENATOR FARLEY: They didn't have any -- oh, that's not nice.

I did go to school with Judge Judy, who's -- she was the only woman in my class.

(Laughter.)

SENATOR FARLEY: But let me just say, Marcia, how proud we are of you and your family, the Podgorski family from Rotterdam,

and what a mark you have made in life and how proud we are of you.

But so many things, you don't leave your past behind. Chief Judge Richard Sise said to make sure how proud he was of what you're doing, and also your Schenectady County roots.

And my very best wishes to you. And what a remarkable career you've had. And the judiciary is lucky to have you, and the Governor has made another excellent appointment. Congratulations.

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

I had the pleasure of seeing the work of Marcia as she was general counsel and I served as chairman of Senate Housing.

I think what was obvious to me is she possesses all these qualities. She's a woman of beauty, she's a woman of brains, she's a woman of experience in so many facets of the law, both public and private sector.

She has the respect of all of the

people that she has worked with in her legal career.

And, finally, she certainly has the qualities that will make her a great judge, and it's been talked about by Senator DeFrancisco and Senator Skelos, of a judicial temperament that she will bring to the bench.

We wish her the best as a Court of Claims judge, and just keep it going. And I'm sure we're going to see you again, Marcia.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: You know, I always try to be fair, and I want to make sure we have full disclosure here. And I forgot to mention this. And I don't know how this is going to affect the vote, but Senator Manny Gold sent a letter recommending Marcia for this position very highly.

(Laughter.)

SENATOR MAZIARZ: Oh, that helps.

SENATOR DeFRANCISCO: So I wanted to make sure that that was on the record and have full disclosure. Thank you.

ACTING PRESIDENT MEIER: Senator DeFrancisco, ordinarily I would ask you to represent me, but after that I don't know.

(Laughter.)

ACTING PRESIDENT MEIER: The question is on the confirmation of Marcia P. Hirsch, of Rockville Centre, as a judge of the Court of Claims. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Judge Hirsch is with us in the chambers today, and we congratulate you and wish you well with your important duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: Senator Robach, from the Committee on Civil Service and Pensions, reports the following bill direct to third reading:

Senate Print 3659B, by Senator Golden, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: The bill will be reported to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Skelos, on page 14 I offer the following amendment to Calendar 149, Senate Print 484, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendment is received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: I believe there's a substitution at the desk. If we could make it at this time.

ACTING PRESIDENT MEIER: The Secretary will read the substitution.

THE SECRETARY: On page 6, Senator Hannon moves to discharge, from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 7099 and substitute it for the identical Senate Bill Number 4264, Second Report Calendar 811.

And on page 43, Senator Flanagan moves to discharge, from the Committee on Agriculture, Assembly Bill Number 1011A and substitute it for the identical Senate Bill Number 2826, Third Reading Calendar 691.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar, with the exception of Resolution 1729.

ACTING PRESIDENT MEIER: All those in favor of adopting the Resolution Calendar, with the exception of Resolution 1729, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those

opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar, with exception, is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, Resolution 1729, by Senator Golden, could we have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Golden, Legislative Resolution Number 1729, memorializing Governor George E. Pataki to proclaim May 17, 2005, as Elder Abuse Awareness Day in the State of New York.

ACTING PRESIDENT MEIER: Senator Golden.

SENATOR GOLDEN: Thank you, Acting President. I'd like to speak on the resolution today on Clarence and Jeannie Soule.

But before I do so, I'd like to welcome the Fire Department here and

congratulate the two judges that are leaving the hall presently.

And speaking of older Americans, my good friend Judge Mega, Chris Mega, formerly Senator Chris Mega, is in the chamber today. Truly a great man, and a great reason why both myself and Senator DiCarlo were privileged to be in this body at different points over the past several years.

I'd like to point to two great people up here, and that's Clarence and Jeannie Soule, who have been designated as the 2005 Senior Citizens of the Year.

We talk about people that make a difference -- and these two people definitely made a difference for the lives of the people in the State of New York. And these were recommended to us by Senator Jim Seward.

And these two, this couple -- could I have some silence in the -- Acting President.

ACTING PRESIDENT MEIER: Can we have some order in the chamber.

Senator Golden.

SENATOR GOLDEN: This couple, a

husband-and-wife team, went out in their years of -- twilight years, and deliver food from a pantry for over 200 people.

Her husband goes in his truck and goes down and picks up the food at the local pantry, I don't know how many miles away from their home, and then he goes and picks up the bread at another location, and he brings all that food back so that they can help the families of their town in delivering food and clothing to those in need.

These are truly two points of light that have definitely helped and contributed to the greatness of this great state.

You know, us as a body, we look and we see what goes well in our communities, and we copy that and we bottle that and we try to take it back to our colleagues so that we can spread it across the state when we see something that's working well.

And, ladies and gentlemen, these two have developed something that we think is really unique and really good. And hopefully we can copy what they've done and be able to talk about it in our communities and be able

to recognize and get people eager to do what they have done, and that's to help our seniors across this great state.

So it is a privilege today to have this resolution on both Clarence and Jeannie Soule, and to recommend them to this great body.

And open up this resolution, I'd like to open up this resolution to all of my colleagues on both sides of the house if -- so that they can join in and be part of this great tribute.

I'd like to thank them. God bless them and their families. And please, continue to do God's work, because it's what you do that makes us as good as we are.

Thank you.

ACTING PRESIDENT MEIER: Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

On behalf of my constituents in Greene County and throughout our part of New York State, I just want to rise to congratulate Clarence and Jeannie Soule on

this very special designation here today.

Because both Clarence and Jeannie are truly outstanding senior citizens of New York State. They are both, together, very active in working to help certainly their family, number one, and then their community, their church, as well as so many individual senior citizens in their community. They are truly a team, and that's something very, very special about all that they do.

Clarence and Jeannie are the parents of four children. But when one of their neighbors died and left two teenagers in need of a home, Clarence and Jeannie actually took those children in and they became part of the Soule family. That's something very, very special.

And as Senator Golden pointed out, while Jeannie is the director of the local food pantry, it's Clarence that's making the runs for the food and clothing and the other items that are so helpful to some 200 families every single month.

They're both very active in the local fire department, the local church, and

they visit people in the nursing homes and help people with transportation needs in their communities.

There's no question that their corner of world and the mountaintop in Greene County, as well as the world in general, is a better place because of these two very loving and caring people.

So I rise to say what a wonderful choice for Senior Citizen of the Year in this couple, and to congratulate them on this important designation.

And while I'm on my feet, I would just like to acknowledge the fact that not only are Clarence and Jeannie in the gallery, but also Jeannie's sister, Barbara Anderson, is with us, as well as Clarence's sister, Dott Giordano, and also Jo van Valkenborgh, who was so important to their being nominated for this important designation.

So to all of you we say congratulations, this is a special day and well-deserved.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I rise also to congratulate this remarkable couple on this very significant honor as Senior Citizens of the Year.

I was the first chairman of the Aging Committee in the New York State Senate. It shows you how old you're getting when you're chairman emeritus of the committee. But anyway, that Senior Citizen of the Year program started under my reign.

And I just want to say what an honor this is and what an outstanding choice that, Senator Golden, you have made with this couple.

I also want to mention that there is a Schenectady connection here, that Barbara Anderson is my constituent from my hometown of Niskayuna, your sister.

And you can be very proud of your sister. I presume it might be your older sister. But it doesn't matter, she's your sister. And I think that that's truly outstanding.

And I congratulate you both, the

Soules, because this is a couple that has given so much, not only to their community but to the entire State of New York. This is just not an honor that is recognized locally, it is a remarkable statewide honor.

And congratulations and best wishes, and many, many more years of serving your fellow persons.

Thank you.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted. Resolution 1729 is adopted.

Resolution 1748, with regard to the members' remarks, was previously adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe that there are two resolutions at the desk by Senator Nozzolio. I would ask that

the titles be read and move for their immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution Number 1805, congratulating the Sodus High School Boys Basketball Team and Coach Jim Sergeant upon the occasion of capturing the New York State Class C State Championship.

And by Senator Nozzolio, Legislative Resolution Number 1806, congratulating the Palmyra-Macedon Boys Basketball Team and Coach John "Chip" Tatro upon the occasion of capturing the New York State Class B Championship.

ACTING PRESIDENT MEIER: On the resolutions, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolutions are adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, I have a privileged resolution at the desk. I would ask that it now be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 1766, welcoming the members of the New York City Uniformed Firefighters Association upon the occasion of their visit to the New York State Capitol, Albany, New York, on Tuesday, May 10, 2005.

"WHEREAS, This Legislative Body, representing the people of the State of New York, is proud to commend the contributions that the New York City firefighters provide us by responding to our needs with extreme bravery at moments in our lives when we are faced with injury or possible death; and

"WHEREAS, Attendant to such certain concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to welcome the members of

the New York City Uniformed Firefighters Association upon the occasion of their visit to the New York State Capitol, Albany, New York, on Tuesday, May 10, 2005; and

"WHEREAS, In the last eight decades, the job of firefighter in New York City has changed greatly, in no small measure due to the dedicated and vigilant actions of the Uniformed Firefighters Association. Committed to improving the living and working conditions of its members through better compensation and benefits, the UFA has served as the true guardian of the welfare of all firefighters; and

"WHEREAS, Borne of and spurred on by the great labor movement of the late 19th and early 20th centuries, the UFA (originally the Uniformed Firemen's Association) sought to improve the lives of its workers. In the beginning, this simply meant fighting for better pay and a shorter workday. In the years that followed, the goals expanded to include seeking paid holidays and vacations, improved pensions, and medical and other benefits; and

"WHEREAS, Central to the success of the union were two key factors: unity of the membership, and strong leadership on the Executive Board. Another important role the union has undertaken is organizing the goodwill and supportive nature of the brotherhood of firefighters by establishing the Widows and Children's Fund, to assist the families of firefighters who have made the supreme sacrifice; and

"WHEREAS, Through the membership, this goodwill has expanded with the establishment of the Thomas Elsasser Fund, which assists the families of firefighters who die non-line-of-duty, and in many cases have great financial needs. The Elsasser Fund, founded in 1990, is a key example of how the UFA continues to evolve and serve as an integral party in the lives of New York City's firefighters; and

"WHEREAS, In 1988, UFA celebrated 80 years of great progress, and looks forward to the 21st century, anticipating even greater improvements in the lives of New York City firefighters. The many thousands of

firefighters, by their hard work and commitment to the union pledge of solidarity, have enriched the lives of so many fellow firefighters and their families; and

"WHEREAS, Today, the UFA is a leader in fighting for its members' rights. The FDNY of today for firefighters is a far cry from what it was when the department began, because of the efforts of UFA organizers; and

"WHEREAS, It is fitting that this Legislative Body honor those who put their lives on the line in the performance of their service to the community, recognizing also that the daily performance of such service by the New York City firefighters enables us to live and work with the security that, if endangered, they will be there to protect us; and

"WHEREAS, These brave individuals often have a thankless job, and people do not recognize that such individuals risk their lives every day that they go to work. These individuals who choose such work should be commended and recognized for their efforts;

and

"WHEREAS, While we show our appreciation for New York City firefighters, we shall also take a moment to remember those firefighters who have lost their lives in service to their communities, and to remember their families and their sacrifice; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to welcome the members of the New York City Uniformed Firefighters Association upon the occasion of their visit to the New York State Capitol, Albany, New York, on Tuesday, May 10, 2005; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the members of the New York City Uniformed Firefighters Association of New York City."

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President and colleagues.

You just heard a resolution that was read. And we're joined here in the

chamber by members of the uniformed firefighters of New York City and their great association that has represented the uniformed firefighters for decades. And we welcome them to the chamber.

And you heard in the resolution words like "extreme bravery." There isn't a person here or a person out there that hasn't experienced in some way what that really means in real life, in a real way. So we're indebted to you, we here in the Senate and the Legislature, the constituency that's out here in New York State, in New York City, because you are really heroes.

Some of you don't look like heroes. I don't know what a hero is supposed to look like. But you are heroes, each and every one of you, through 9/11 and what happened there. When people were exiting with flames raging, firefighters were going in. As the traffic was exiting the building as quickly as they could, firefighters were going in. Hundreds of them killed. Trying to do what? Lead people to safety and save people.

So thank you. Thank you for the

work that you do. Every day that you get up, you never know what that day is going to bring. You're always on duty. And if there's a fire and you're not on duty, I know you respond. You're there. You're in the vicinity. And people died who were not on duty as firefighters on 9/11, and in other places.

So, Mr. President and colleagues, we honor, through this resolution, the firefighters, each and every one individually. You can be proud of what you do. Your families are proud of you. Your neighbors are proud of you. We here in government are proud. Because when you think in terms of being out there, doing whatever, whatever it takes -- to do what? Save people's lives, keep them from harm, protect their property. That's what you do on a daily basis.

And in your profession, we only hope and pray that you have less time to be out there putting out fires and more time to think and train and maintain equipment, do all the kinds of things that you do.

So thank you. Thanks for your

commitment. Thanks for your bravery. Thanks for the heroism that you display whenever you're called out, not knowing what it is that is going to be there. It could appear to be a small fire, and who knows what's there, and there's an explosion. And you recognize that, and you put on your uniforms and you're there.

So thank you all, and God bless you in your work.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Golden.

SENATOR GOLDEN: Thank you, Acting President.

I could never say it as well as the leader has just said it. The work that you do each and every day for this city and for this state, you just can't add it up. You just can't put it down on paper. You just cannot figure out the dollars that you wind up saving this city when it costs -- goes to life, when it goes to property, when it goes to keeping our city as strong as it is and our state as strong as it is.

I personally thank each and every

one of you for being here today.

We still, to this day, are having street namings in the City of New York for those that perished on 9/11. We just had one last week. And next Monday, coming up, at 10:30 in the morning, we'll be doing a memorial in Kings County at the American Veterans Memorial Pier at 69th Street and Shore Road. And hopefully we can get some of the Fire Department members to show up and be part of that memorial.

And we're going to be naming -- for the next several months we'll still be naming streets in honor and parks in honor of those that perished from 9/11.

And it doesn't go by a week that we don't see a fire or a terrible tragedy in the City of New York where we see our firemen being hurt and we see our citizens being hurt in our city. And you are running into that building and saving lives. I commend each and every one of you and thank you for being here today. And this body appreciates what you've done and what your family sacrifices have been.

So may God continue to bless each and every one of you and your families for the great sacrifices that you continue to meet and make each and every day.

Thank you.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you. I rise to salute America's heroes.

Because, you know, after 9/11 I think that you and your colleagues from the New York City firefighters did more to raise the status and love that the rest of the state and nation has for firefighters, and to realize the heroism that your colleagues that gave their lives -- and didn't give their lives, but served under that terrible, terrible tragedy.

And what you accomplished and the respect that you have given to the firefighters throughout this nation is really a tribute to you and to the New York City firefighters.

I'm very proud of all that you have done for, not only for our state but what you

do every day. As Senator Golden said, may God bless you and keep you safe in your work. It's perhaps the most dangerous occupation that we have in our country. I think it is the most dangerous.

And we wish you well. We're grateful for your service and very, very proud that you're here today.

ACTING PRESIDENT MEIER: On the resolution, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Those opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is unanimously adopted.

(Standing ovation.)

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, I wish to call up Print Number 1430A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The

Secretary will read.

THE SECRETARY: Calendar Number 377, by Senator Fuschillo, Senate Print 1430A, an act to authorize the French-speaking Baptist Church.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the noncontroversial reading of the calendar.

ACTING PRESIDENT MEIER: The Secretary will conduct the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 221, by Senator Golden, Senate Print 1823, an act to amend the Penal Law --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 379, by Senator Libous, Senate Print 1820A, an act to amend the Village Law and the Public Officers Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 432, by Senator Saland, Senate Print 3192, an act to amend the Education Law --

SENATOR BRUNO: Lay it aside for

the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 463, by Senator Skelos, Senate Print 3508, an act to amend the Penal Law, in relation to the possession of disguised knives.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Duane and Montgomery recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 507, by Member of the Assembly Sweeney, Assembly Print Number 3107, an act to amend the Executive Law, in relation to employment discrimination.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 571, by Senator Libous, Senate Print 3705, an act to amend the Town Law and the Public Officers Law, in relation to providing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 574, by Senator LaValle, Senate Print 1094, an

act in relation to authorizing a study of the relevant issues.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 594, by Senator Fuschillo, Senate Print 1865, an act to amend the Judiciary Law, in relation to practicing or appearing.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 622, by Senator Volker, Senate Print 3908, an act to amend the Criminal Procedure Law, in relation to the disclosure.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 634, by Senator Trunzo, Senate Print 425, an act to amend the Vehicle and Traffic Law, in relation to dealers.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 646, by Senator Robach, Senate Print 4258, an act to amend the Civil Service Law, in relation to suspension.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 663, by Senator Rath, Senate Print 3313, an act to amend the General Municipal Law, in relation to municipal cooperative activities.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 666, by Senator Trunzo, Senate Print 3572, an act in relation to authorizing the assessor of the Town of Islip.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 670, by Senator Larkin, Senate Print 3838, an act authorizing the Goldsmith D. and Mary B.

Johnes Home.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 672, by Senator Skelos, Senate Print 3898, an act authorizing the assessor of the County of Nassau to accept an application.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 674, by Senator Balboni, Senate Print 3965, an act authorizing Korean Joong Bu Presbyterian Church.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Bonacic recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 681, by Senator Seward, Senate Print 3819A, an act to amend Chapter 630 of the Laws of 1988, amending the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 684, by Senator Maziarz, Senate Print 4185 --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 757, by Senator Wright, Senate Print 5200A, an act to amend the Economic Development Law, in relation to the Power for Jobs electricity savings reimbursements.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MEIER: The bill

is passed.

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

SENATOR SKELOS: Thank you, Mr. President. If we could go to the controversial reading of the calendar.

ACTING PRESIDENT MEIER: The Secretary will ring the bells, please.

Members are asked to come to the chamber for the controversial reading of the calendar.

The Secretary will conduct the controversial reading of the calendar.

THE SECRETARY: Calendar Number 221, by Senator Golden, Senate Print 1823, an act to amend the Penal Law, in relation to criminal use of public records.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Golden, Senator Schneiderman has requested an explanation of Calendar 221.

SENATOR GOLDEN: Thank you, Acting President.

This bill makes the use of public

records for the purpose of committing a crime a Class E felony; in effect, committing a crime in furtherance of a crime with the use of FOILed records.

We have situations across the state -- more recently, one from Long Island where two corrections officers were working and their information was FOILed and their credit was ruined.

And if you were to take a look at the Google search and the use of public records for gain, you would see that there are 1,690 hits on that alone. And that's on Google hits for using public records for gain and for using public records for illicit gain.

And obviously, when that is taken from those files, that material is used against correction officers, police officers and other law enforcement agencies and officers to hurt them and their families. And that is the reason for the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, through you, Mr. President, if the sponsor

would yield for a question.

ACTING PRESIDENT MEIER: Senator Golden, do you yield for a question?

SENATOR GOLDEN: I do, sir.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: I understand, Mr. President, that this is a bill which I feel is not a good solution to any problem. But I feel that it is a sincere effort to address a problem.

I was wondering if the sponsor could further explain the circumstances with these correction officers that leads us to be here today once again visiting this piece of legislation.

SENATOR GOLDEN: The question again, please?

SENATOR SCHNEIDERMAN: Through you, Mr. President, specifically, what were the records that were FOILed with these corrections officers that led to this situation that requires the bill to be here today?

SENATOR GOLDEN: What they do is

they access their Social Security numbers and then purchase credit cards in their Social Security and names and use those Social Security cards and ruin the officers' and law enforcement officers' credit rating and build up tremendous dollars on accounts that they have no idea that they have or had.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. Thank the sponsor.

On the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: This is, I think, right up there with Senator Maziarz's "wounded bears chasing children through the woods act" as far as badly drafted pieces of legislation go, in my view.

The difficulty I have, and I've shared this with the sponsor, is that while I do think it's a sincere effort to get at a problem, this legislation will not address that problem and will create many, many other problems.

This bill, as drafted, states that a person -- it's an additional crime of

criminal use of public records applied to anyone who uses any information derived from a public record that's obtained through a FOIL request in the commission of a crime. So it creates an additional crime.

It doesn't require that the person who uses the information is the person who did the FOIL request, it doesn't require that the person who uses the information even knows that this came from a FOIL request. So I think that this is a good example of legislation that has -- other than its title, it doesn't do anything to address the issue that it purports to address.

I would respectfully suggest, and I'm happy to work with the sponsor on this, that the answer to dealing with the problem of criminals, a very real problem of criminals getting access to records, is to work through the exemptions to the FOIL law provided in the Civil Rights Law to deal with the question of regulation of information brokers, which is a very serious problem here. I'm shocked we haven't had a bill from Senator Balboni about that yet.

But the problem of people getting access to public records is very real. It would not be addressed by this bill. This bill would create a crime for anyone -- unknowingly, knowingly, no scientia requirement -- who uses a record in the commission of any crime. It's just not something that's ever going to pass and become law. It should not become law.

And I would respectfully request that before we revisit this again another year, let's try and draft up something that addresses the very real problem apparently faced by these correction officers.

I'll be voting no, encouraging everyone to vote no, and I will be encouraging the sponsor to work with us on redrafting this before spring springs again here in 2006.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Golden.

SENATOR GOLDEN: Thank you, Acting President. Will Senator Sneidelman -- Sneidelman -- Schneiderman yield for a question.

ACTING PRESIDENT MEIER: Senator Schneiderman, do you yield?

SENATOR SCHNEIDERMAN: Or someone more or less by that name, yes.

ACTING PRESIDENT MEIER: He yields.

SENATOR GOLDEN: I believe the question that you have is because the -- I guess they would not know, if somebody could find these records in the street and use these records against the correction officer or police officer and would not knowingly know that they were FOILed.

Is that the issue at hand?

SENATOR SCHNEIDERMAN: Well, actually, no.

This doesn't provide any parameters for the criminal conduct at issue. This means if you commit any crime -- and I suppose this could mean, you know, that you get the address of someone who you then go burgle their house and you happen to get it from a document you don't know is FOILed -- if you're, I suppose, sort of a confused burglar who's leafing through documents -- that would fall under the

statute.

This provides absolutely no limitations. It doesn't require that the crime that is committed, the underlying actual crime, relates to the person whose records were FOILed. It doesn't require that the -- that anything. I mean, really, this is as broadly drafted as you could possibly make a bill.

So my problem is not just that someone could be guilty of this additional crime without knowing that the records were FOILed, it's that this could relate to a crime that has nothing to do, really, with the FOILed records. It could be something where they're using information derived from a FOILed record without knowledge.

And it doesn't -- again, you don't address a very specific problem of something, as you describe -- which I respect your effort to address it -- with the correction officers having their Social Security numbers picked up out of the system, by having an overly broad statute that would relate to any possible crime in the use of any possible record that

happens to have once been derived from FOILed information.

SENATOR GOLDEN: Would Senator Schneiderman continue to yield.

ACTING PRESIDENT MEIER: Senator, do you continue to yield?

SENATOR SCHNEIDERMAN: I'd be happy to yield.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR GOLDEN: Senator Schneiderman, if the word "knowingly" were placed in there, a person is guilty of the criminal use of public records when he or she knowingly uses any record or information, knowingly uses any record or information derived from any record in the course of that crime, would that help us to get this past your --

SENATOR SCHNEIDERMAN: Well, I -- through you, Mr. President, that certainly would be an improvement.

But I think that my suggestion to the sponsor would be that the answer to the problem we're addressing here is to prevent

this information from getting into the wrong hands in the first place.

We have to take steps to protect the confidential records correction officers and police officers, as has been done through the civil rights laws, and not to providing an overly broad punishment after the fact of people who, you know, may or may not have knowingly obtained the records.

I would also suggest that -- and I think we can solve that problem. I think it's something we should address through the civil rights laws.

I would, in addition to the suggestion that you add "knowingly," the definition of the commission of a crime I think has to be revisited. Because I would suggest if you're creating a new statute having to do with the abuse of public records, that there should be some parameters for the crime we're talking about. It should be a crime that relates to the abuse of those records.

So I think, rather than editing this sentence, I think we should start over

and write a new sentence. And I'm happy to work with the sponsor on that in our spare time as we await the end of session.

ACTING PRESIDENT MEIER: Senator Golden.

SENATOR GOLDEN: On the bill.

I appreciate Senator Schneiderman's opposition to certain paragraphs and definitions, and I will change that word in an amendment to "knowingly."

I will proceed with this bill and be glad to work with you in the future to make this bill even better.

Thank you, sir.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

Senator Klein.

SENATOR KLEIN: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Klein, on the bill.

SENATOR KLEIN: While I applaud Senator Golden's attempt to strengthen our laws when it comes to identity theft, this is the second time this session the only

legislation we're attempting to pass has to do with penalties. While I certainly would believe we should be punishing the perpetrators of identity theft, I think we really have to do more.

I did several investigations in this area, one involving state computers which shows that in a four-year period, New York State's computers were hacked into 72 times. And we're talking about the Department of Motor Vehicles, the State Department of Taxation and Finance. Clearly, areas that hold a lot of very important information.

We know, this year, the cases of ChoicePoint and BankAmerica -- the list goes on and on.

Several years ago, in the state of California, someone hacked into the direct deposit system for state employees and stole over 233,000 names and Social Security numbers of California state employees.

This is a huge problem. And I think the way we should deal with it is legislation that I have introduced in the Assembly, which is now carried by Senator

Fuschillo, which would notify individuals if they were a victim of identity theft.

I think the only way we can get corporate America, as well as our state, to take this issue seriously is to require them to notify people if their information is taken. Clearly there is not one corporation in the United States right now that has their own policy in requiring to notify people if information is taken off their computers.

So I think that will have a tremendous chilling effect on the entire industry. And I hope that the legislation I talked about, actually notifying individuals if they're the victim of identity theft, comes to fruition in this house.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

The debate is closed, then.

The Secretary will ring the bells.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I'm going to vote aye on this bill.

And I think some of the objections of Senator Schneiderman have been addressed by a brilliant suggestion by Senator Golden as far as the word "knowingly."

The other point is one of the problems that Senator Schneiderman mentioned was that it's too open-ended. But the bill does say that the penalty goes into effect or the statute is applicable when these records are used in the furtherance of committing a crime. I think that does state that the records have to be used to help facilitate the crime, and it's already an element.

Also, this is just one remedy. I mean, obviously there's an administration that should be doing everything they can to prevent hacking of government information. And the other bill that was mentioned, the Fuschillo bill, is another component.

So I don't think any of these are mutually exclusive. I think we need all of them. And I vote aye.

ACTING PRESIDENT MEIER: Senator DeFrancisco will be recorded in the affirmative.

Senator Fuschillo, to explain his vote.

SENATOR FUSCHILLO: Thank you, Mr. President. Let me just add my support to this legislation and compliment my colleague.

As a victim of identity theft some two years ago, it is a terrible experience for anybody to go through, when you come home one day and you find a couple of Gateway computers on your door, with the Federal Express truck outside. And I happened to be by there. And when I denied them, when I checked with Gateway, somebody had my Social Security number and all my personal information.

So I compliment Senator Golden on this.

And to respond to Senator Klein, we have come pretty close in the "Comprehensive Computer Breach Bill," in response to

ChoicePoint, because we as a state should have a law that's similar to California, that when a computer is stolen and an individual's personal information is in there, that individual should be notified in an expeditious manner.

Because in my case, once I was a victim of identity theft, contacting the police and being the chair of Consumer Protection, you know a little bit what to do when your identity is stolen. And the best thing to do is time has to be on your side, where you have to contact the credit bureaus, the credit checks immediately. But the penalties in our state don't go far enough.

So my compliments to Senator Golden, and I'll be voting in the affirmative on this legislation.

ACTING PRESIDENT MEIER: Senator Fuschillo will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar 221 are Senators Andrews, Brown, Connor, Dilan, Duane,

Gonzalez, Hassell-Thompson, L. Krueger, Montgomery, Parker, Paterson, Sabini, Savino, Schneiderman and A. Smith. Also Senator Breslin. Also Senator Stavisky. Also Senator Serrano.

Ayes, 41. Nays, 18.

Absent from voting on Calendar Number 221, Senator Maltese.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 684, by Senator Maziarz, Senate Print 4185, an act to amend the Workers' Compensation Law, in relation to the penalty for failure to post.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: Mr. President, I believe we have an amendment at the desk. I would waive its reading and have an opportunity to explain the amendment.

ACTING PRESIDENT MEIER: Senator, your amendment is at the desk. The reading is waived, and you're recognized for the purpose of explaining your amendment.

SENATOR ONORATO: Okay. Well,

this is supposedly a hostile amendment, but I really clarify it as a very friendly amendment.

This amendment increases the maximum amount of workers' compensation benefits to $600 per week beginning October 1, 2005, and subsequently increases the benefits to 100 percent of the state's average weekly wage, and subsequently upon the commencement of the next workers' compensation premium billing cycle.

Each year some 135,000 workers in New York State establish New York workers' compensation claims because they are hurt or become ill on the job. The impact of these injuries and illnesses is devastating on the workers and their families. They must face hardships coping with their healing and disability as well as the loss of income and the dignity that working brings.

It has been 13 years since benefits for workers injured on the job have been increased. In 1992, the maximum benefit of $400 was 66 percent of New York's average weekly wage. Today, that same $400 maximum

benefit, which just 3 percent of injured workers collect, is only 44 percent of the average weekly wage.

And while New Yorkers' maximum weekly benefit is among the lowest in the country, the cost of living in New York State is among the highest in the country.

And according to the National Association of Insurance Commissioners, the average profit for workers' compensation to insurance companies was 14.3 percent. Compare that to the average profit margin on auto insurance companies of 5.5 percent and homeowner's insurance of 5.4 percent. Clearly, the insurance industry is making an adequate return on these policies.

Injured workers need these increases. Tying the maximum workers' comp award to the state's weekly average week wage is a fair standard that would automatically adjust the award without further recourse to the Legislature.

And also, we have also been remiss in some of our most seriously compromised people who are on workers' compensation that

haven't had a raise since they've been on it -- in some cases, 20 to 25 years. We certainly take care of our city and state and federal workers with cost-of-living increases to their pension benefits, but we completely forget the most seriously injured in our community, those who need the assistance the most.

So I would urge everyone to support this amendment.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman.

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

I think it's appropriate today, since we just honored a group of extraordinary public servants, the firefighters, to recognize the fact that what the working men and women of this state need, as Senator Onorato just pointed out -- it's nice to have a resolution, but it's better to have good pay, it's better to have a worker's compensation law that will actually protect you if you're injured on the job.

And it's good to have pro-labor bills like the permanent agency shop bill that we urge the house to move on every year and that unfortunately appears to be passing the Assembly once again without action in this house.

So I would urge everyone to support this amendment and for us to make a commitment not to adjourn this summer without addressing the needs of New York State's working men and women, including our public servants but also those in the private sector who clearly cannot support their families on the current workers' compensation payment schedule.

Thanks to Senator Onorato for this amendment. I encourage everyone to vote yes.

ACTING PRESIDENT MEIER: On the amendment, those Senators in agreement please signify by raising your hands.

THE SECRETARY: Those in agreement with the amendment are Senators Andrews, Breslin, Brown, Connor, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini,

Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

ACTING PRESIDENT MEIER: The amendment is not agreed to.

Any other member wish to speak on the bill?

Debate is closed, then.

The Secretary will sound the bells.

Members are asked to come to the chamber for a vote.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I'm voting no.

And I really don't see the rationale behind doubling the penalty for failing to put a notice up. Many businesses put many notices up in many locations. And

because one or two is not there -- this is, I think, an undue burden.

I think $250 is plenty of a penalty, and there's other remedies that would be much more effective in notifying workers of their rights than doubling a fine.

ACTING PRESIDENT MEIER: Senator DeFrancisco will be recorded in the negative.

Senator Alesi, to explain his vote.

SENATOR ALESI: Thank you, I'd like to explain my vote as well.

Mr. President, with all respect to the attempt to protect workers with workers' compensation to make sure that they are clearly advised that their employer in fact carries the insurance, the requirement of $250 is sufficient, in my estimation. Especially when we're trying to understand that in New York State we want to attract business, we want to preserve business. And doubling this does really nothing except put money into the uninsured fund, on the one hand.

But on the other hand, if you read the bill, you'll see that this applies to anybody that -- if they have a number of

vehicles, that notices have to be posted in the vehicles.

It would be extremely burdensome to anybody that owns a fleet of vehicles, for example, to find that a driver or somebody else, a passenger or anybody, just ripped something off of it and as a result of that the owner of that business would have to pay not just $250 per occurrence, but $500 per occurrence.

I think it's almost reminiscent of the radar-trap mentality of the Cuomo years. And for that reason, if nothing else, I'm voting no on this bill.

ACTING PRESIDENT MEIER: Senator Alesi will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 684 are Senators Alesi, DeFrancisco, Larkin, Meier, Rath, Robach, Saland and Seward. Also Senator Golden.

Ayes, 50. Nays, 9.

Absent from voting on Calendar

Number 684, Senator Maltese.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SKELOS: Thank you, Mr. President.

Is there any further business to come before the Senate?

ACTING PRESIDENT MEIER: There is no further business at the desk, Senator.

SENATOR SKELOS: There being none, I move we stand adjourned until Wednesday, May 11th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Wednesday, May 11th, at 11:00 a.m.

(Whereupon, at 4:24 p.m., the Senate adjourned.)