NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 18, 2005

11:05 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, Tuesday, May 17, the Senate met pursuant to adjournment. The Journal of Monday, May 16, 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 Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator DeFrancisco, on page Number 40 I offer the following amendments to Calendar Number 631, Senate Print Number 4170, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, are there any substitutions to be made at this time?

THE PRESIDENT: Yes, there are, Senator.

SENATOR SKELOS: If we could make

them, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 4, Senator Hannon moves to discharge, from the Committee on Health, Assembly Bill Number 5220, and substitute it for the identical Senate Bill Number 4797, First Report Calendar 986.

On page 5, Senator Hannon moves to discharge, from the Committee on Health, Assembly Bill Number 6618 and substitute it for the identical Senate Bill Number 5322, First Report Calendar 989.

On page 5, Senator Hannon moves to discharge, from the Committee on Health, Assembly Bill Number 6620 and substitute it for the identical Senate Bill Number 5325, First Report Calendar 990.

On page 5, Senator LaValle moves to discharge, from the Committee on Finance, Assembly Bill Number 2343 and substitute it for the identical Senate Bill Number 1560A, First Report Calendar 993.

On page 5, Senator Nozzolio moves

to discharge, from the Committee on Finance, Assembly Bill Number 4452 and substitute it for the identical Senate Bill Number 3377, First Report Calendar 998.

On page 6, Senator Flanagan moves to discharge, from the Committee on Finance, Assembly Bill Number 6504 and substitute it for the identical Senate Bill Number 3650, First Report Calendar 1000.

On page 7, Senator Marcellino moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 3255 and substitute it for the identical Senate Bill Number 2472, First Report Calendar 1012.

On page 7, Senator Rath moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 227 and substitute it for the identical Senate Bill Number 2901, First Report Calendar 1013.

On page 9, Senator Volker moves to discharge, from the Committee on Health, Assembly Bill Number 1790 and substitute it for the identical Senate Bill Number 5271, First Report Calendar 1034.

On page 10, Senator Alesi moves to

discharge, from the Committee on Environmental Conservation, Assembly Bill Number 2882A and substitute it for the identical Senate Bill Number 3054A, First Report Calendar 1041.

On page 11, Senator Robach moves to discharge, from the Committee on Transportation, Assembly Bill Number 787 and substitute it for the identical Senate Bill Number 2768, First Report Calendar 1055.

On page 11, Senator Larkin moves to discharge, from the Committee on Transportation, Assembly Bill Number 2156 and substitute it for the identical Senate Bill Number 3206, First Report Calendar 1056.

And on page 11, Senator Balboni moves to discharge, from the Committee on Transportation, Assembly Bill Number 2915A and substitute it for the identical Senate Bill Number 3575A, First Report Calendar 1057.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of the

Finance Committee at the desk.

THE PRESIDENT: The Secretary will read.

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

As Superintendent of Insurance, Howard D. Mills, of Goshen.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

THE PRESIDENT: Senator Seward.

SENATOR SEWARD: Yes, Madam President. I'm very pleased to rise in support of Howard Mills to be named and confirmed by this body to be our Superintendent of Insurance in New York State.

And first of all, I just want to congratulate the Governor for making an outstanding nomination in Howard Mills. You know, even though Howard has been known to many, many people through his record of local government service down in Orange County, a member of the New York State Assembly, statewide candidate for office, but in the

insurance world, when he was nominated by the Governor to be superintendent, in much of the insurance world it was "Howard who?"

But that very quickly, very quickly changed. Because the way that Howard Mills, as acting superintendent, has dove right into the very complex insurance issues facing this state -- and across the country, for that matter -- there's no question that he possesses very much a command of the insurance issues, a very keen grasp of some of the complex regulatory problems facing the insurance world.

He's been very available and accessible, traveling this state, talking with all of the stakeholders involved in the insurance issues, and has certainly been very available and accessible to the members of the Legislature these past four months that he has been acting superintendent.

Very importantly, Howard Mills has looked out for New York State's interests at the national level, in Washington, through his support for the Terrorism Risk Insurance Act, TRIA. Very, very important that Congress

renews this. Howard has been down in Washington, fighting for this and for New York's interests. He has been fighting for state regulation of insurance in all the discussions involving the SMART Act.

And I think there's no question Howard has the best interests of the people of this state, all of whom are insurance consumers, as he carries out his duties.

Just one quick example. We've been working very hard to help bring down auto insurance rates, and we've seen a number of announcements of auto insurance rate reductions in this state because of the good work of the Insurance Department under Howard's leadership and those of his predecessor, Greg Serio.

So the people of this state are already benefiting from Howard's leadership at the Insurance Department. And we look forward to many more months and years of his leadership at that department on behalf of the people of the State of New York.

So this is a great day, and I'm very pleased that it's finally arrived. And I

just want to congratulate Howard, his wife, Erin, and his family. It's a proud day for you, and it's really a proud day for all of us.

So, Madam President, I'm very pleased to stand in support of this confirmation.

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

I want to join my colleague Senator Seward in congratulating Governor Pataki on a great appointment.

Howard, I've known him since he's been here in Albany as a member of the Assembly. I worked with him very closely last year, and he had the occasion to travel around the state a great deal. And he did -- has always done a commendable job regardless of the task.

And Senator Seward talked about some of the issues that Howard has tackled already. Just in his brief tenure as acting commissioner, I've been in contact with him, my office, several times on issues involving

the Insurance Department, and Howard has been there. He's going to be a great commissioner. It's a very good appointment.

Howard, congratulations to you and your family. We realize the insurance industry in the State of New York is in a state of flux, is challenging right now, and I could not any think of a better person to tackle those challenges.

Thank you, Madam President.

THE PRESIDENT: Senator Winner.

SENATOR WINNER: Thank you, Madam President.

I rise to support the nomination of Howard Mills for Superintendent of Insurance. And I'm delighted to see him here today with his wife, Erin.

Howard and I were very good friends in the New York State Assembly, serving together. And while I cannot with the same amount of eloquence and particularity testify as to his attributes for Superintendent of Insurance, I know that the reports that I get are that he is doing a terrific job and will continue to do a terrific job.

But I can say that as a colleague in the New York State Assembly, Howard was just an absolutely outstanding member of the Legislature, dedicated to his constituents, and did a fine, fine job in support of the conference that I served in for many, many years.

And for those reasons, knowing that Howard has an outstanding character, he really proved himself to be quite a spectacular individual when he was campaigning for statewide office. There were people were impressed from one end of this state to the other by his character and abilities. And to that extent, I know he's going to bring those abilities and character to his position as Superintendent of Insurance.

And I wholeheartedly support his nomination and hope that he will receive unanimous support in this body thank you.

THE PRESIDENT: Senator Onorato.

SENATOR ONORATO: Madam President, I rise to join my colleagues in seconding the nomination of Howard Mills for the Superintendent of Insurance.

Senator Wright indicated earlier on that his name was brought about that when his name was brought about that they said, "Howard who?"

Well, "Howard who" came to the Insurance Committee and he got off to a running start by giving a lesson indicating his knowledge of the background of insurance. He served on the Insurance Committee in the Assembly. And during the first four months as an acting superintendent, he showed a great deal of knowledge in grasping the issues that are facing us in the insurance world today.

And I know that he's going to do an excellent job, because I had the pleasure of traveling with him to Italy with his wife Erin. And his wife ensured that we had a wonderful, wonderful trip.

And I'm sure he's going to lend the same expertise to making sure that the people of the State of New York are going to be equally happy that he's come board the Insurance Department to lead us into greater and higher awards.

Congratulations, Howard. And you

and your wife, the best of health.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

First of all, I'd like to welcome Erin, Howard's parents, Howard and his mom -- mom and dad -- Pat.

I don't want to tell you how old I am, but I go back when Howard was a teenager. And Howard has a brother and a sister. And his dad, I think, who was in real estate and development, I think he always wanted Howard to succeed him in this area, be an entrepreneur and make money.

And I can tell you, very rarely as a teenager do you find teenagers that are interested in public service. But this gentleman, from a very early age, loved public service. And he went to college, got his degrees, and he never deviated from the mission of public service.

He ran, successful supervisor in Wallkill, successful Assemblyman, exercised himself in leadership positions. And now here he is, going to be our Commissioner of

Insurance.

I stand in support and in congratulations. Howard, they're going to say all nice things about you today. But once you're the commissioner, if you do anything wrong, they're going to come after you.

(Laughter.)

SENATOR BONACIC: But even as acting commissioner, he has already made a mark. Insurance companies have been lowering their rates. He interceded in an impasse in Bon Secours and Blue Shield/Blue Cross to keep negotiations going, making sure there was continued health coverage for thousands and thousands of people in the mid-Hudson area.

So we have a very dedicated public servant, a very talented individual, intelligent. I know he will do a wonderful job.

And we wish you the best in your future endeavors, Howard. Thank you.

Thank you, Madam President.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Thank you, Madam President.

I rise to join the chorus of support for Howard Mills, our new Superintendent of Insurance. I've known Howard since he was the supervisor of the Town of Wallkill. Very bright, aggressive, energetic young man who I believe will serve and I'm convinced he will serve both the people of the State of New York and the insurance industry well.

And I want to join Senator Bonacic's remarks regarding Bon Secours and Empire Blue Cross, to make sure that that negotiation between the hospitals continues so that we can have good health care for so many people in the Hudson area.

Howard, I wish you all the very best. I wish you the best, Erin and your parents, Howard Sr. and Mrs. Mills, as you go off into this new assignment, carrying with you the traits that you have grown up with which is honesty, fairness, and energy and industry. So the very best to you.

And I support the nomination of Commissioner Mills.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

I echo the remarks of my colleagues, in particular Senator Seward and Senator Onorato.

I spoke at the Insurance Committee meeting and also at the Finance Committee meeting that all of us have been so impressed at the ability of Acting Superintendent, soon to be Superintendent Mills in getting up to speed on very complex issues, issues that I believe are critically important to the State of New York, and taking those issues and being accessible to us in the Senate, and I'm sure the Assembly, but on both sides of the aisle.

His response time is just what we need here, and I'm sure that response time is even better to consumers.

So I applaud the Governor in choosing Howard Mills. I look forward to working with him in the coming years.

Congratulations, Howard, and congratulations to your family.

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Thank you, Madam

President.

Howard, it's been a long road, but finally the day is here.

Those of you who knew Howard in the Assembly, or you've met him on the trail last campaign, or you've had the privilege of working with him in the four months that he's been in the department, you found out one thing about Howard Mills. Howard Mills, number one, is a team player.

Howard Mills is a hard study and a fast learner. I've had the privilege of knowing Howard for many years. He's been my constituent for a heck of a long time. But I always noticed that Howard always wanted to be a partner, and he knew what role had to be played and how to play it.

I've had businesses in my community that I've asked Howard to call because of some high-technical thing in the insurance industry. Their remarks were very simple: He's an individual who takes time, who listens and helps you solve the problem.

But then again, if you look at Howard since he first got into politics, I

said at the Finance meeting, one time I was in Washington at a meeting and Howard was working for then our Congressman Ben Gilman, and Ben said to me, "Can you find me two more Howards? And I can get rid of ten people." Because he was so keen on what the responsibility of the Congressman's office were. He spent untold hours, not for Howard Mills, but for the office he was representing and the person.

When he became a town councilman, you could always make sure that that district that Howard represented had full access to him, day or night. Became the town supervisor, he did an outstanding job as town supervisor. Became an Assemblyman, did the same thing.

Howard Mills has helped us in the past four months on such critical issues as backstop, TRIA, and now, most recently, the SMART Act, which Congress is trying to pass. And I want to thank him publicly for going to Washington and telling Senators Schumer and Clinton and our congressional delegation of the impact that this will have on our state.

Consequently, some people now are

taking a second look. Now Howard has convinced the National Association of Insurance Commissioners that they were down the wrong path, and they're joining him.

It's an honor and a privilege to stand here and second your nomination, because I know we, the people of the State of New York, will be better served because we nominated and accepted an individual who's a totally committed individual.

And, Erin, you take all the credit for what he's done. Mr. and Mrs. Mills, you've raised a super son. Congratulations.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Madam President, I too want to join my colleagues in speaking on this nomination.

And, Howard, I only wish that all of those who work in state government approached it with the enthusiasm and excitement as you have this position.

As my colleagues have said, you know, and others, I sat through both the Insurance Committee and the Finance Committee, listened to the comments made from both sides

of the aisle. They talked about not only his dedication, his commitment, his responsiveness to the consumer, his responsiveness to colleagues here, but also the fact that he has a tremendous grasp of the issues and he's done it so quickly.

Unfortunately, there are people in the media who from time to time think because if one holds elective office, they're not qualified to do anything else. Howard, thank you for proving that wrong. And there's hope for the rest of us someday.

(Laughter.)

SENATOR LIBOUS: But I just want to say to the Governor's choice here, it is outstanding.

And I know that next week Howard will be joining me in Binghamton, and I will be very proud to introduce you as the new Superintendent of the Insurance Department.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Madam President.

I rise to associate myself with all the fine comments made this morning about the

new Superintendent of Insurance, a former colleague of ours, one who served with great distinction in the New York Assembly.

I've gotten to know him through the years and am extremely impressed with his energy, his ability to articulate and understand important and complex issues, his desire to expand business in New York and grow jobs at the same time, though ideally suited for this position because he understands the need of New York consumers.

Howard Mills is an excellent choice. I praise Governor Pataki for making it. I'm very pleased with all the bipartisan great comments made about him. An excellent appointment, one I know we'll all be proud of in this new capacity.

I'm proud to know him proud, to be his friend, and, Madam President, look forward to casting this vote in unanimous support of his candidacy.

Thank you.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

Senator Seward has given me permission to speak about the Insurance Superintendent.

(Laughter.)

SENATOR FARLEY: But let me just say that Howard Mills, I got to know him mostly as he was going around the state running in a very difficult race. He was enthusiastic. He never lost focus. Everybody that heard him speak thought he was one of the finest speakers that had ever come to some of my counties.

You know, it was interesting to watch this young man as he came into the Assembly and he rose in leadership like a rocket because of how he is respected by his colleagues.

You're taking on one of the most difficult jobs in government, in my judgment, in the Insurance Department. And as superintendent, there's been a lot of problems and so forth in the insurance area. But I'm confident that the Governor has made a terrific appointment in this rising star.

And we haven't heard the last from

him. He's coming on to do a lot of great things in the future.

Howard, we're very proud of you. Congratulations to you and your family on this appointment.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Madam President.

I don't want to repeat my remarks that I made in the Finance Committee. But -- and I wish I could quote the quote from Theodore Roosevelt.

I'll just say this, that Acting Superintendent Mills has been extremely responsive to the letters that I sent him on behalf of my constituents, and I'm sure that will continue.

I'm also extremely confident that he will hear those remarks of then Governor Roosevelt ringing in his ears every time he's doing something on behalf of consumers in the state. I'm certain, based upon his sense of fairness, that he will protect the consumers of our state and make sure that the Insurance

Department works for all in the State of New York.

I'm very, very happy to rise in support of his nomination.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I too am thrilled to stand up and second the nomination of Howard Mills.

I think that he made a great presentation in both committees, of which I sit on. And Senator Larkin is absolutely correct, he is a quick learner. Because he was not nearly as lengthy in Finance as he was in Insurance, so that everybody was much more happy with him.

(Laughter.)

SENATOR STACHOWSKI: And the fact is, he showed a great depth of knowledge and an awareness of problems that people have with constituents. And so that the openness that we think we'll have with his office that we usually didn't have before is going to be a nice breath of fresh air.

And I'm sure he's going to go a

great job, and I congratulate the Governor on this appointment.

THE PRESIDENT: Senator Young.

SENATOR YOUNG: Thank you very much.

And I'm just so proud today to rise in support of my former colleague Howard Mills.

Howard and I were first elected in 1998 to the New York State Assembly together, and so we were classmates. And I know firsthand all of the wonderful work that Mr. Mills was able to accomplish in the State Assembly. He truly was a leader there. He worked very, very hard. He did an excellent job.

And his energy, enthusiasm, ability to get things done really is a tremendous asset to the people of New York State. I'm so glad that he's going to be serving in his new capacity, because he will do a very fine job.

So I commend Mr. Mills and really look forward to working with him in a new capacity.

Erin, hello, it's great to see you.

Mr. and Mrs. Mills, it's great to see you too.

But I'm just so proud today of what he's been able to accomplish and the fact that he will be serving in this new capacity for the people of New York State.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

Howard, I'm really glad that Erin and your parents are here because they can hear firsthand that you are that rarest of a breed in Albany, and that is a person about which no one has anything bad to say.

And if you listen to the consistent theme in all of these remarks here today, they talk about your hard work, your integrity, your refusal to back down in the face of difficult challenges, a realization that runs through your entire public career that our jobs are not about us but about the people who expect us to serve them.

You give public service a good name, and Governor Pataki has given public service a good name by appointing you Superintendent of Insurance.

Best wishes with your duties.

THE PRESIDENT: Senator Leibell.

SENATOR LEIBELL: Thank you, Madam President.

And, Howard, I want to echo the comments that all of our colleagues have made here in a bipartisan fashion.

You are taking over one of the most difficult and complex assignments we have in state government. And I want to congratulate Governor Pataki on submitting your name.

I've had the chance to work with you over many years now, certainly as a member of the State Legislature and now as the acting superintendent and soon to be superintendent. You have done a tremendous job. You are more than a quick study. You have taken, as I said, one of our most complex and difficult areas and have mastered it.

So I look forward to working with you. I congratulate you for all your hard work. And as a son of the Hudson Valley, you know we're all proud of you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Thank you, Madam

President.

Howard, I want to wish my best of luck to you, on behalf of myself but also on behalf of Senator Bruno, who unfortunately cannot be in the chamber right now.

This is a great appointment. But I think what's significant about it from a member's point of view, you've been there. You've served in the Assembly, you understand the pressures that we are put under, the needs that we have as individual legislators to serve our constituents.

And I think that's a very positive note in your appointment, that you understand the legislative process. You're going to fully understand, as obviously you do already, the importance of your office.

I think the Governor has made just an absolutely excellent, excellent appointment. I know that Senator Bruno feels that way, all of our colleagues on a bipartisan basis.

So I can congratulate you and Erin. And of course I know how proud your parents are. And I see your father looking over

there; we can see where you get your good looks from.

(Laughter.)

THE PRESIDENT: Thank you, Senator Skelos.

Superintendent Mills is here this morning with his wife, Erin, and with his mother and father, Howard and Pat.

Best wishes to you, Howard, as my friend and colleague. And I've seen your excellence, your dedication in all the challenges you've had thus far. There's no question the Governor made the right choice. And you will also achieve excellence in your new job.

The question now is on the resolution. All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed. Congratulations and best wishes, Superintendent Mills.

(Applause.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, there's a Resolution 1940 at the desk by Senator Sampson. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Sampson, Legislative Resolution Number 1940, commemorating the 159th Anniversary of Saint Paul's United Methodist Church, to be celebrated on May 22, 2005.

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 1941 at the desk by Senator Leibell. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Leibell, Legislative Resolution Number 1941, honoring Barbara Mullaney upon the occasion of her retirement after 30 distinguished years as an educator.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Move to adopt the resolution.

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: If we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

222, by Senator LaValle, Senate Print 30A, an act relating to contracts for education.

SENATOR LaVALLE: Lay it aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 296, by Senator Farley, Senate Print 2856, an act to amend the Banking Law, in relation to unauthorized entities.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 297, by Senator Farley, Senate Print 2857, an act to amend the Banking Law, in relation to the powers of banks.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 307, by Senator Maziarz, Senate Print 211A, an act to amend the Real Property Law, in relation to requiring.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 308, by Senator Nozzolio, Senate Print 506, an act to amend the Public Housing Law, in relation to the members of the Geneva Housing Authority.

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.

THE PRESIDENT: The bill is passed.

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

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, 55. Nays, 1. Senator Bonacic recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 430, by Senator Wright, Senate Print 2978A, an

act in relation to transportation contracts.

THE PRESIDENT: There is a local fiscal impact note at the desk.

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 485, by Senator Hannon, Senate Print 2563, an act to amend the Vehicle and Traffic Law, in relation to persons authorized.

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 PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Yes, Madam President.

This bill deals with the drawing of blood. And I know that for some, that's a very scary thing to address. You know, not so much in this body anymore, but, tragically, in the other house, where my friends in the Assembly and people who work over there don't really seem to understand how it is that HIV is contracted.

Because it's not easy to contract HIV. In fact, it's close to impossible to get HIV during the normal course of action during employment.

The New York State Department of Health Regulation 6310 states that there are three factors necessary to create a significant risk of contracting or transmitting HIV infection. They are: The presence of significant risk body substance; a circumstance which constitutes significant risk for transmitting or contracting HIV infection; and the presence of an infectious source and a noninfected person.

"Significant risk body substances" are blood, semen, vaginal secretions, breast milk, tissue and the following body fluids:

Cerebrospinal, amniotic, peritoneal, synovial, pericardial, and pleural.

Circumstances which constitute -- these are the circumstances which constitute "significant risk of transmitting or contracting HIV infection": Sexual intercourse -- that is, vaginal, anal, oral -- which exposes a noninfected individual to blood, semen or vaginal secretions of an infected individual; sharing of needles and other paraphernalia used for preparing and injecting drugs between infected and noninfected individuals; the gestation, birthing or breast-feeding of an infant when the mother is infected with HIV; transfusion or transplantation of blood, organs or other tissues from an infected to an uninfected individual, provided such blood, organs or other tissues have not tested conclusively for antibody or antigen and not been rendered noninfective by heat or chemical treatment; other circumstances during which a significant risk body substance (other than breast milk) of an infected individual contacts mucous membranes -- that is, in the eyes, nose or

mouth -- nonintact skin (for instance, open wounds, skin with a dermatitis condition, abraded areas), or the vascular system of a noninfected person. Such circumstances include but are not limited to needlestick or puncture wound injuries and direct saturation or permeation of these body surfaces by the infectious body substance.

Circumstances that involve "significant risk" shall not include -- so the following are not significant risk -- exposure to urine, feces, sputum, nasal secretions, saliva, sweat, tears or vomitus that does not contain blood that is visible to the naked eye; human bites where there is no direct blood-to-blood or blood-to-mucous-membrane contact; exposure of intact skin to blood or any other body substance; or occupational settings where individuals use scientifically accepted barrier techniques and preventive practices in circumstances which would otherwise pose a significant risk and such barriers are not breached and remain intact.

You know, I am constantly amazed that in this day and age -- what is it now,

more than 20 years into the AIDS crisis -- that there are people, and I'm talking predominantly about the other house or their -- or other people who work over there, who would put forward the impression that you could get HIV-infected by casual contact.

I'm going to vote yes on this bill, Madam President, in the hopes that there's some education which has taken place in the Capitol today.

Thank you, Madam President.

THE PRESIDENT: You will be so recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 512, by Senator Winner, Senate Print 3222, an act to amend the Tax Law, in relation to the imposition of sales and compensating use taxes.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 584, by Senator Padavan, Senate Print 3485, an act to amend the Private Housing Finance Law, in relation to rehabilitation loans.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 586, by Senator Bonacic, Senate Print 4062, an act to amend the Private Housing Finance Law, in relation to the farmworker housing.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 591, by Senator DeFrancisco, Senate Print 46, an act to amend the Real Property Law, in relation to real estate brokers.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 635, by Senator Leibell, Senate Print 2233A, an act to amend the Highway Law, in relation to the designation of the Hudson Valley

POW/MIA Memorial Highway.

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 689, by Senator Larkin, Senate Print 1397A, an act to amend the Agriculture and Markets Law, in relation to including fermented agricultural products.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 13. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Padavan recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 718, by Senator Farley, Senate Print 2159, an act to amend the Civil Rights Law, in relation to the confidentiality of certain personnel records.

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, 54. Nays, 2. Senators DeFrancisco and Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 725, by Senator Golden, Senate Print 3433 --

SENATOR ONORATO: Lay the bill aside.

THE PRESIDENT: The bill is laid aside.

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

THE PRESIDENT: The bill is laid

aside for the day.

THE SECRETARY: Calendar Number 744, by Senator Little, Senate Print 3842, an act to authorize the Town of Burke, in the County of Franklin, to increase the amount of the veterans real property tax exemption.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 836, by Senator Skelos, Senate Print 4361, an act to amend Chapter 318 of the Laws of 2004 authorizing a certain joint venture.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 841, by Senator LaValle, Senate Print 684, an act to amend the Education Law, in relation to due process requirements.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 932, by Member of the Assembly Tokasz, Assembly Print Number 876, an act to amend the Local Finance Law, in relation to financing demolition.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 933, by Senator Morahan, Senate Print 844, an act to authorize the County of Rockland.

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

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, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 965, by Member of the Assembly Cahill, Assembly Print Number 7625A, an act to enact the "Flood Assessment Relief Act of 2005."

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: Those recorded in the negative on Calendar Number 965 are Senators DeFrancisco and Marcellino.

Ayes, 54. Nays, 2.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

SENATOR SKELOS: Thank you, Madam President.

If we could return to motions and resolutions, I believe there's a resolution at the desk by Senator Larkin. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: Motions and resolutions.

The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 1942, commemorating the 115th Anniversary of Saint Cabrini Home in West Park, New York, to be

celebrated on May 20 and 22, 2005.

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: Is there any further business to come before the Senate?

THE PRESIDENT: No, there is not.

SENATOR SKELOS: There being no further business, I move we stand adjourned until Monday, May 23rd, at 3:00 p.m., intervening days being legislative days.

THE PRESIDENT: Upon motion, the Senate now stands adjourned until Monday, May 23rd, 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:51 a.m., the Senate adjourned.)