NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 9, 2006

3:07 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 Pastor Drew Corbett, from Grace Baptist Church in Dansville, New York.

PASTOR CORBETT: Would you bow with me in prayer, please.

Father in heaven, we are so grateful for life today. We thank You that You are the creator of this universe, the God of heaven, the God of earth, the God of governments.

We thank You for this government, for this great state. Thank You for what is represented here by way of wisdom. And I pray for the Senators as they meet.

You have asked that if we lack wisdom we simply ask of You, who give

liberally. And so we ask that today.

I also pray, as the Senate is in order and going through so many things, I pray for their homes, for their wives, husbands, children that are away, for the sacrifices that are made. We thank You for that.

Thank You for the leadership of this Senate, for the bills that are coming forth. And I pray that we would be kind, one to another.

And we humbly beseech You to be with us. This we pray in Jesus' name.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 8, the Senate met pursuant to adjournment. The Journal of Sunday, May 7, 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 Meier.

SENATOR MEIER: Thank you, Madam President.

On behalf of Senator DeFrancisco, on page Number 54 I offer the following amendments to Calendar Number 927, Senate Print Number 4844A, and ask that said bill retain its place on third reading.

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

SENATOR MEIER: Madam President, on page number 37, on behalf of Senator Skelos, I offer the following amendments to Calendar Number 729, Senate Print Number 7171, and ask that said bill retain its place on third reading.

THE PRESIDENT: The amendments are received, and that bill will also retain

its place on the Third Reading Calendar.

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 45, Senator DeFrancisco moves to discharge, from the Committee on Judiciary, Assembly Bill Number 10717 and substitute it for the identical Senate Bill Number 6843, Third Reading Calendar 828.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar, with the exception of Resolutions 4199, 5041, and 5133.

THE PRESIDENT: All in favor of adopting the Resolution Calendar as indicated by Senator Skelos please signify by saying

aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is so adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 4199, by Senator Robach, have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Robach, Legislative Resolution Number 4199, memorializing Governor George E. Pataki to declare May 2006 as "Hepatitis C Awareness Month" in the State of New York.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a resolution at the desk, 5041, by Senator Golden. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Golden, Legislative Resolution Number 5041, memorializing Governor George E. Pataki to proclaim May 2006 as Older Americans Month in the State of New York.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Thank you, Madam President. I rise to talk on Older Americans Month.

May was first proclaimed Older Americans Month in 1963. At that time, only 17 million Americans were over the age of 65. In 2006, an important year because the first of the baby boomers, of that generation, will turn 60.

With 77 million baby boomers approaching retirement, it is essential that we acknowledge the profound impact this change

will have on our state and on our nation. By 2030, over one in four New Yorkers will be over 60 and one in 10 will be over 75.

The theme of this year's Older Americans Month is choices for independence. Ensuring independence and choice for our seniors is an important goal. The fact that the Senate Aging Committee, of which I am the chair, considers independence, dignity and choice to be the core values that should guide our work.

Today's seniors are active and educated. They want a say in their care and in their future. By planning ahead and listening to our seniors, we can find ways to stay independent longer and to offer a variety of options to meet those needs, whether they be naturally occurring retirement communities, NORCs, or consumer-directed programs, or caregiver assistance initiatives so that our caregivers have some dollars and wherewithal to take care of our seniors.

In addition to reminding us that we must find an innovative way to care for our aging population, Older Americans Month is for

all they do for our community. Senior citizens are active volunteers working in our schools, our hospitals, our senior centers and many other venues. In fact, nearly half of all Americans age 55 and over volunteered at least once in the past year. Of Americans 75 and older, 43 percent volunteered in the past year.

That was half of all 55 and over volunteered and those over 75, 43 percent volunteered. Americans aged 55 and over have contributed over 7.5 billion hours in this year alone.

And that's what it's about, ladies and gentlemen, taking care of our seniors and making sure that we acknowledge them and acknowledge the great contributions that they can make when they retire.

Thank you.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe there is a resolution at the desk by Senator Winner. I would ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Winner, Legislative Resolution Number 5133, honoring Elmira native Eileen M. Collins, the first female space shuttle pilot and shuttle commander, upon the occasion of her retirement from the National Aeronautics and Space Administration.

THE PRESIDENT: Senator Winner.

SENATOR WINNER: Thank you, Madam President.

It's my distinct pleasure and honor to be able to rise in support of this resolution honoring Eileen M. Collins, an Elmira native and a true American hero.

Eileen Collins rose from very humble beginnings in Elmira, New York,

graduating from Elmira Free Academy, Corning Community College, and going on to Syracuse University, majoring in mathematics and science, and then in 1991 went on to become an astronaut.

From there she undertook about six shuttle astronaut adventures, including being the first female shuttle commander and shuttle pilot in the history of NASA, and undertook the Discovery mission in 1999, and then last year the "return to flight" Discovery mission, which was a success and culminated in the docking to the space station and a safe return, something that we all in this country were very much looking forward to with great trepidation, considering some of the tragedies that have faced NASA in the past.

THE PRESIDENT: Go ahead, Senator Winner.

SENATOR WINNER: Eileen Collins is now retiring from NASA, and this outstanding American and outstanding New Yorker -- or former New Yorker -- I'm sure will achieve significant successes in the future.

And I am very appreciative of this body being able to take time to honor her terrific record and terrific contribution, not only to NASA but to the whole space program, and representing what really you can do with hard work and dedication coming from humble beginnings.

And my deep congratulations go out to her and her family, and we wish her well on her retirement.

Thank you, Madam President.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, I have a resolution at the desk that was previously adopted. I would respectfully ask that it be read in its entirety at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 4797, congratulating the Troy Albany Youth Hockey Association Peewee Team upon the occasion of competing in the 2006 Tretiak Friendship Cup Tournament in Moscow.

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

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, it is the sense of this Legislative Body to congratulate the Troy Albany Youth Hockey Association Peewee Team upon the occasion of competing in the 2006 Tretiak Friendship Cup Tournament in Moscow; and

"WHEREAS, An annual international kids and junior hockey tournament, under the patronage of the Moscow government and

legendary goaltender Vladislav Tretiak and his International Sport Academy, the Tretiak Friendship Cup is dedicated to one of the greatest series played in the history of international hockey, the 1972 Summit Series: USSR versus Canada (NHL); and

"WHEREAS, In addition, the Tretiak Friendship Cup is about kids playing hockey, giving each kid who is involved as a team member the chance in all the games along with the best players, as well as being a place where friends meet and lifelong friendships are made; and

"WHEREAS, Truly an international event, the Tretiak Friendship Cup features teams from Russia, Sweden, Switzerland, the Czech Republic, France, Germany, Latvia, Slovenia, as well as the Troy Albany Youth Hockey Association Peewee Team; and

"WHEREAS, In the Tretiak Friendship Cup, the Troy Albany Youth Hockey Association Peewee Team played teams from all over Russia. After the games were over, they traded email, hats, and jerseys with their opponents. In addition, Jordan Juron was honored with a

special gift as the first girl to play in the seven-year history of the tournament; and

"WHEREAS, During this once-in-a-lifetime experience, the Troy Albany Youth Hockey Association Peewee Team toured many historical and internationally recognized sites, including the Kremlin, the Armory Museum, Red Square, the Moscow Circus, and the World War II Museum, as well as many churches and cathedrals; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach Mike Juron and his dedicated staff, skilled and inspirational tutors who have done a superb job in guiding, molding and inspiring the team members towards their goals; and

"WHEREAS, Loyally and enthusiastically supported by family, fans, friends and the community at large, the members of the Troy Albany Youth Hockey Association Peewee Team have clearly made a contribution to the spirit of excellence which is a tradition of the Capital District; and

"WHEREAS, Sports competition

instills the values of teamwork, pride and accomplishment, and the outstanding athletes on the Troy Albany Youth Hockey Association Peewee Team have clearly proven themselves to be a reflection of those values; and

"WHEREAS, It is the sense of this Legislative Body that when young people who represent their community with pride and determination while participating in competitive sports are brought to our attention, they should be celebrated and recognized by all the citizens of the great State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the Troy Albany Youth Hockey Association Peewee Team, its members -- Frank Buksa, Matthew DeVito, Spencer Glaim, John Gosstola, Stephen Hamilton, Samuel Hartz, Jon Houston, Cody Johnson, Jordan Juron, Taylor Merritt, Jack Nardiello, John Pfeiffer, Joe Rooney, Nick Ryan, Ryan Thyrring, Samuel Vaimberg and Matthew Zeglen -- Manager Rich Glaim, Assistant Coach John Hamilton, and Coach Mike Juron upon the occasion of

competing in the 2006 Tretiak Friendship Cup Tournament in Moscow; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Troy Albany Youth Hockey Association Peewee Team."

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Thank you, Madam President and colleagues.

You know, it's always a great honor for me to acknowledge, respect and honor people or groups that distinguish themselves in some way.

It's a special honor for me to welcome the peewee hockey team that you see up here, not just because, as you heard in this resolution, that they represented the Capital Region, but they represented New York State and the United States in Moscow and just returned -- competed, this group, against the outstanding teams from countries all over the world. You think about that.

And for the first time, Jordan Juron, who is here -- raise your hand -- that little girl was honored as the first girl

competitor in the whole world in peewee hockey, in Moscow.

So we're here celebrating their accomplishment and congratulating them, their parents, their neighbors, their friends, the whole support group. Because the experience that they had in representing the United States in hockey -- which itself is a sport that takes a lot of practice, endurance, stamina, competitiveness. And they have it all, at their young tender ages. They've got to be tough. And they have excelled.

So you can be very, very proud. We're proud of you. Proud of all the good things that you have done, proud to have you here with us.

And as you go on through life, the lessons you learn internationally, they are lessons that many of us would like to have experienced in our lives. We haven't, and we never will. So what you have done so far will hold you in good stead as you go on through school, you go on to become young adults and be real leaders in everything and anything that you do.

So I'm proud of you, we are proud of you that you have excelled the way you have excelled. And we welcome you here to the Senate chamber.

And the resolution that you heard read is passed just like any law that we pass here in this beautiful chamber, and it becomes a record of the history of New York State. So that when you grow up, your children, your grandchildren can come in and check the records of New York State and they will see this resolution number, recognizing your accomplishments that you have just experienced in Moscow.

So welcome back. Congratulations to all of you.

And I want to thank the president, who is Rensselaer County's best, and all of my colleagues here.

THE PRESIDENT: Thank you, Senator Bruno.

Congratulations. As Senator Bruno mentioned, I am a resident of Troy. And I am so proud of what you have accomplished. Jordan, I'm in awe of what you've

accomplished.

I certainly think that the skills, the perseverance, the experiences that you've had with hockey are going to be a good indicator of success all the way down the road. Best wishes.

Now, on the resolution, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Congratulations and best wishes.

(Applause.)

THE PRESIDENT: Senator Bruno.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 347, by Senator Spano, Senate Print 2975B, an act to amend the Executive Law, in relation --

SENATOR BRUNO: Lay it aside

temporarily.

THE PRESIDENT: The bill is laid aside temporarily.

THE SECRETARY: Calendar Number 707, by Senator Winner, Senate Print 6767, an act to amend the Agriculture and Markets Law.

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, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 728, by Senator Skelos, Senate Print 7141, an act to amend Chapter 564 of the Laws of 2004.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays,

1. Senator Bonacic recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 730, by Senator Little, Senate Print 7198, an act to authorize the Town of Fort Ann, in the County of Washington.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 779, by Senator Winner, Senate Print 2748, an act to amend the General Municipal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 792, by Senator Little, Senate Print 7325, an act to amend the Local Finance Law and Chapter 413 of the Laws of 1991, amending the Local Finance Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 804, by Senator Young, Senate Print 2285, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as Section 2 of Chapter 673 of the Laws of 2004.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I'm going to be voting against this bill because it makes permanent the revocation of a driver's license for persons who have committed certain drug and alcohol offenses. And generally I believe that permanency is too harsh, and I believe that there's such a thing as rehabilitation and redemption.

However, I would be remiss if I didn't mention that a person who has a serious drug and/or alcohol dependency obviously needs treatment. And many New Yorkers can't afford the mental health treatment or chemical addiction treatment that they need and

deserve. And yet another day has gone by here in the Senate, and we don't have Timothy's Law on the active list.

Certainly New Yorkers deserve a strong mental health parity law. And I can't stress enough that the Senate absolutely needs to pass Timothy's Law this session.

I'll be voting no on this bill. And I might not have to do that if we had a Timothy's Law that covered drug and alcohol dependency.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Duane.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 804 are Senators Duane and Montgomery.

Ayes, 55. Nays, 2.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 814, by Senator Bonacic, Senate Print 6659, an act to amend the Highway Law.

ACTING PRESIDENT MORAHAN: Read

the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 824, by Senator Alesi, Senate Print --

SENATOR SCHNEIDERMAN: Lay it aside.

ACTING PRESIDENT MORAHAN: The bill is laid aside.

THE SECRETARY: Calendar Number 827, by Senator DeFrancisco, Senate Print 5062A, an act to amend the Estates, Powers and Trusts Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 828, substituted earlier today by Member of the Assembly Lavine, Assembly Print Number 10717, an act to amend the Universal District Court Act.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 845, by Senator Trunzo, Senate Print 432, an act to amend the Education Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 853, by Senator Trunzo, Senate Print 3358, an act to amend the Labor Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 881, by Senator Skelos, Senate Print 7451, an act to amend the General Business Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 889, by Senator Golden, Senate Print 1826, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, can I ask what number we're voting on now?

ACTING PRESIDENT MORAHAN: Calendar 889.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT MORAHAN: The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 890, by Senator Golden, Senate Print 1827, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 891, by Senator Maltese, Senate Print 1870A, an act to amend the Civil Rights Law and others.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 893, by Senator Padavan, Senate Print 2206, an act to amend the Penal Law, the Vehicle and Traffic Law, and the Criminal Procedure Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 10. This act shall take effect on the first of November.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 893 are Senators Duane, Montgomery and Parker.

Ayes, 54. Nays, 3.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 894, by Senator Padavan, Senate Print 3229, an act to amend the Criminal Procedure Law and

the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 894 are Senators Dilan, Duane, L. Krueger and Montgomery.

Ayes, 54. Nays, 4.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 895, by Senator Golden, Senate Print 3374, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 896, by Senator Leibell, Senate Print 3789, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 898, by Senator DeFrancisco, Senate Print 4051, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 900, by Senator Padavan, Senate Print 4774, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 944, by Senator Volker, Senate Print 6329, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number

952, by Senator Meier, Senate Print 7706, an act to amend the Tax Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Senator Meier, to explain his vote.

SENATOR MEIER: Thank you, Mr. President. Just briefly.

I'm voting aye on this piece of legislation, which authorizes the County of Oneida to reduce its county sales tax by one-half of 1 percent, effective the first of September, and then to reduce it again, by one-quarter of 1 percent additional, on the first of December of this year.

This bill is made possible by the fact that we took over the county's full share of the Family Health Plus program and we capped the county's share of Medicaid's growth.

Now, I would add a note of caution that while we took over additional costs from the county, we have more work to do on Medicaid reform if we are not to have a ticking time bomb inside our budget. And it would be nice if the other body could come along and get together with us on Senator Skelos's Medicaid fraud bill.

This was the right thing that my home county did by giving these savings back to the taxpayers, and I'm proud that they kept their commitment to those people. I vote aye.

ACTING PRESIDENT MORAHAN: Thank you, Senator Meier. You will be recorded in the affirmative.

Senator Valesky.

SENATOR VALESKY: Thank you very much, Mr. President. To explain my vote as well.

I appreciate Senator Meier bringing this bill to the floor today. As he explained, it reduces by a half a point and then gives them the authority to reduce by an additional quarter percent one of the highest sales taxes in the nation. And this body has

had a lot to do with that through the Medicaid cap that was implemented in last year's New York State budget.

I encourage all of my colleagues to support this measure. Thank you.

ACTING PRESIDENT MORAHAN: Thank you, Senator. You will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MORAHAN: The bill is passed.

The Secretary will read Calendar Number 347.

THE SECRETARY: Calendar Number 347, by Senator Spano, Senate Print 2975B, an act to amend the Executive Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 58. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MORAHAN: 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, I believe there's one bill.

ACTING PRESIDENT MORAHAN: There is one bill.

The Secretary will read.

THE SECRETARY: Calendar Number 824, by Senator Alesi, Senate Print 2417, an act to amend the General Business Law and the Civil Practice Law and Rules.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MORAHAN: Senator Alesi, an explanation has been requested.

SENATOR ALESI: Thank you.

Mr. President, this is a repeat attempt to pass the Uniform Trade Secrets Act in New York State, bringing New York State into line with 42 other states and the District of Columbia when it comes to providing protection for high-tech and other firms against their trade secrets being misappropriated.

Thank you very much, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Alesi.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank the sponsor for that brief explanation.

Oh, the person I wanted to hear that is not here. I'm sorry.

On the bill, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: We've had a similar discussion for the last few years. The identical bill came up in 2004 and then again in 2005.

I would urge my colleagues that while the intention to protect trade secrets

from improper use and from misappropriation is something that I think everyone supports, the way this particular bill is drafted goes far too far in a direction that I believe would very easily be used to suppress the kind of free flow of information that makes our commerce thrive and that also enables people to protect themselves from corporate malfeasance.

The bill describes trade secrets extremely broadly: Any type of information tangible or intangible -- I'm reading now from the second page of the bill -- whether or how stored, compiled or memorialized. This is a trade secret as long as it deprives independent economic value, actual or potential, from not being generally known.

Misappropriation of a trade secret, as defined, can mean something as simple as duplicating, sketching, delivering or sending a trade secret without authorization. So we're talking about pretty much any type of financial information. Last year I posited the idea that this could mean a shortcut in a delivery route.

And misappropriation simply means duplicating or sending or conveying, without authorization, that information. There is no requirement, I note, in the Section 279N that the party who is sending it understand that authorization is required.

So this is something that provides extremely broad protection. The worst part of this bill, in my view, is that it requires courts -- and this is something that I believe is unprecedented in our state. It says that in an action under this article, a court shall preserve the secrecy of an alleged trade secret by reasonable means. This means if someone comes in and alleges something is a trade secret, the court has no discretion. The court shall preserve the secrecy even if it's just alleged to be a trade secret.

So this, in my view, goes far too far to covering up activities, covering up business activities that may not necessarily be in the public interest to cover up.

We have seen many times in the past with tires, with the Firestone litigation -- more recently we've seen with the Vioxx

litigation that the manufacturer of Vioxx was in fact attempting to cover up the situation with the drug.

And I note -- and this is -- and you have to be some kind of a real corporate scoundrel to be exposed by the Wall Street Journal. These people were even too bad for the Wall Street Journal, which published emails exposing that there was a concerted effort to bury the negative evidence of Vioxx's negative consequences and distort the drug trials by excluding heart patients from the Vioxx studies.

So if even the Wall Street Journal says these people are -- this is corporate malfeasance, which I think they maybe found once or twice in the entire history of that esteemed publication, this is pretty bad stuff.

Under this bill, the information wouldn't get out. All the manufacturer has to do is go into court, allege a trade secret, and the court is mandated to provide protection. Sure, down the road it may be possible to prevail in longer litigation, but

that's not the kind of protection that we need here.

I think that we should be moving towards more sunshine in litigation. There is a sunshine-in-litigation act in other statutes that are proposed so that the people of this state can know what's going on when health and life is at risk. This moves too far in the other direction.

And I also note, finally, if for no other reason, my colleagues who are opposed to frivolous litigation, my colleagues who say that, you know, trial lawyers bring frivolous lawsuits and they should be prohibited, there is an article in the CPLR that imposes penalties -- CPLR Section 8303 -- penalties for frivolous litigation. This statute would exempt people alleging trade secrets and bringing actions to suppress trade information from the provisions that prohibit frivolous claims in defenses.

So if you're opposed to frivolous lawsuits, you certainly should not be in favor of Section 2 of this bill, which exempts this whole category of litigation from the

sanctions against frivolous litigation.

So for that reason, because this takes away the court's discretion, has overbroad definitions, allows companies just to come in and allege trade secrets and obtain relief, and because it eliminates the very important provisions against frivolous litigation in CPLR Section 8303, I'm going to once again be voting no.

I would love to see a redrafted version of this at some point so we can feel that some of the objections that hold this bill up year after year are being heard. But I would urge my colleagues to vote no in the interim.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator Schneiderman. You will be recorded as voting in the negative.

Does any other Senator wish to be heard?

Debate is closed.

The Secretary will ring the bell.

The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 824 are Senators Andrews, Breslin, Connor, Coppola, DeFrancisco, Diaz, Dilan, Duane, Gonzalez, L. Krueger, Montgomery, Morahan, Onorato, Parker, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, and Stavisky.

Those Senators absent from voting: Senator C. Kruger.

Ayes, 35. Nays, 24.

ACTING PRESIDENT MORAHAN: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any further business at the desk? I believe there are several motions.

ACTING PRESIDENT MORAHAN: Yes,

there is. We have two motions by Senator Farley.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I wish to call up my bill, on page 48, and offer the following amendments to Calendar Number 864, Senate Print 7585. And I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: On behalf of Senator Larkin, Mr. President, I wish to call up his bill, Print Number 854, which was recalled from the Assembly and is now at your desk.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 666, by Senator Larkin, Senate Print 854, an act to amend the Real Property Tax Law.

SENATOR FARLEY: Mr. President, I

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

ACTING PRESIDENT MORAHAN: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT MORAHAN: The bill is restored to its place on the Third Reading Calendar.

SENATOR FARLEY: Mr. President, I now offer the following amendments to that bill.

ACTING PRESIDENT MORAHAN: The amendments are received.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business to come before the Senate, I move we stand adjourned until Wednesday, May 10th, at 11:00 a.m. There being no other business to come before the Senate, the Senate stands adjourned until 11:00 o'clock, Wednesday, May 10th.

(Whereupon, at 3:53 p.m., the Senate adjourned.)