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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

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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

1 liberally. And so we ask that today.

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

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

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

13 Amen.

14 THE PRESIDENT: Reading of the
15 Journal.

16 THE SECRETARY: In Senate,
17 Monday, May 8, the Senate met pursuant to
18 adjournment. The Journal of Sunday, May 7,
19 was read and approved. On motion, Senate
20 adjourned.

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

24 Presentation of petitions.

25 Messages from the Assembly.

1 Messages from the Governor.
2 Reports of standing committees.
3 Reports of select committees.
4 Communications and reports from
5 state officers.

6 Motions and resolutions.

7 Senator Meier.

8 SENATOR MEIER: Thank you, Madam
9 President.

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

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

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

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

1 its place on the Third Reading Calendar.

2 SENATOR MEIER: Thank you, Madam
3 President.

4 THE PRESIDENT: Senator Skelos.

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

8 THE PRESIDENT: The Secretary
9 will read.

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

16 THE PRESIDENT: Substitutions
17 ordered.

18 Senator Skelos.

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

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

1 aye.

2 (Response of "Aye.")

3 THE PRESIDENT: Opposed, nay.

4 (No response.)

5 THE PRESIDENT: The Resolution

6 Calendar is so adopted.

7 Senator Skelos.

8 SENATOR SKELOS: Madam President,

9 if we could take up Resolution 4199, by

10 Senator Robach, have the title read and move

11 for its immediate adoption.

12 THE PRESIDENT: The Secretary

13 will read.

14 THE SECRETARY: By Senator

15 Robach, Legislative Resolution Number 4199,

16 memorializing Governor George E. Pataki to

17 declare May 2006 as "Hepatitis C Awareness

18 Month" in the State of New York.

19 THE PRESIDENT: All in favor of

20 the resolution please signify by saying aye.

21 (Response of "Aye.")

22 THE PRESIDENT: Opposed, nay.

23 (No response.)

24 THE PRESIDENT: The resolution is

25 adopted.

1 Senator Skelos.

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

6 THE PRESIDENT: The Secretary
7 will read.

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

13 THE PRESIDENT: Senator Golden.

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

17 May was first proclaimed Older
18 Americans Month in 1963. At that time, only
19 17 million Americans were over the age of 65.
20 In 2006, an important year because the first
21 of the baby boomers, of that generation, will
22 turn 60.

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

1 will have on our state and on our nation. By
2 2030, over one in four New Yorkers will be
3 over 60 and one in 10 will be over 75.

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

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

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

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

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

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

19 Thank you.

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

23 (Response of "Aye.")

24 THE PRESIDENT: Opposed, nay.

25 (No response.)

1 THE PRESIDENT: The resolution is
2 adopted.

3 Senator Bruno.

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

8 THE PRESIDENT: The Secretary
9 will read.

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

17 THE PRESIDENT: Senator Winner.

18 SENATOR WINNER: Thank you, Madam
19 President.

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

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

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

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

18 THE PRESIDENT: Go ahead, Senator
19 Winner.

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

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

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

11 Thank you, Madam President.

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

14 (Response of "Aye.")

15 THE PRESIDENT: Opposed, nay.

16 (No response.)

17 THE PRESIDENT: The resolution is
18 adopted.

19 Senator Bruno.

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

24 THE PRESIDENT: The Secretary
25 will read.

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

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

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

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

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

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

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

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

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

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

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

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

25 "WHEREAS, Sports competition

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

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

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

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

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

7 THE PRESIDENT: Senator Bruno.

8 SENATOR BRUNO: Thank you, Madam
9 President and colleagues.

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

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

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

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

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

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

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

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

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

15 So welcome back. Congratulations
16 to all of you.

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

20 THE PRESIDENT: Thank you,
21 Senator Bruno.

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

1 accomplished.

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

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

9 (Response of "Aye.")

10 THE PRESIDENT: Opposed, nay.

11 (No response.)

12 THE PRESIDENT: The resolution is
13 adopted.

14 Congratulations and best wishes.

15 (Applause.)

16 THE PRESIDENT: Senator Bruno.

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

20 THE PRESIDENT: The Secretary
21 will read.

22 THE SECRETARY: Calendar Number
23 347, by Senator Spano, Senate Print 2975B, an
24 act to amend the Executive Law, in relation --

25 SENATOR BRUNO: Lay it aside

1 temporarily.

2 THE PRESIDENT: The bill is laid
3 aside temporarily.

4 THE SECRETARY: Calendar Number
5 707, by Senator Winner, Senate Print 6767, an
6 act to amend the Agriculture and Markets Law.

7 THE PRESIDENT: Read the last
8 section.

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

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

13 THE SECRETARY: Ayes, 57.

14 THE PRESIDENT: The bill is
15 passed.

16 THE SECRETARY: Calendar Number
17 728, by Senator Skelos, Senate Print 7141, an
18 act to amend Chapter 564 of the Laws of 2004.

19 THE PRESIDENT: Read the last
20 section.

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

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

25 THE SECRETARY: Ayes, 56. Nays,

1 1. Senator Bonacic recorded in the negative.

2 THE PRESIDENT: The bill is
3 passed.

4 THE SECRETARY: Calendar Number
5 730, by Senator Little, Senate Print 7198, an
6 act to authorize the Town of Fort Ann, in the
7 County of Washington.

8 THE PRESIDENT: Read the last
9 section.

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

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

14 THE SECRETARY: Ayes, 57.

15 THE PRESIDENT: The bill is
16 passed.

17 THE SECRETARY: Calendar Number
18 779, by Senator Winner, Senate Print 2748, an
19 act to amend the General Municipal Law.

20 THE PRESIDENT: Read the last
21 section.

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

24 THE PRESIDENT: Call the roll.
25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 57.

2 THE PRESIDENT: The bill is
3 passed.

4 THE SECRETARY: Calendar Number
5 792, by Senator Little, Senate Print 7325, an
6 act to amend the Local Finance Law and Chapter
7 413 of the Laws of 1991, amending the Local
8 Finance Law.

9 ACTING PRESIDENT MORAHAN: Read
10 the last section.

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

13 ACTING PRESIDENT MORAHAN: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT MORAHAN:
17 Announce the results.

18 THE SECRETARY: Ayes, 57.

19 ACTING PRESIDENT MORAHAN: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 804, by Senator Young, Senate Print 2285, an
23 act to amend the Vehicle and Traffic Law.

24 ACTING PRESIDENT MORAHAN: Read
25 the last section.

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

5 ACTING PRESIDENT MORAHAN: Call
6 the roll.

7 (The Secretary called the roll.)

8 ACTING PRESIDENT MORAHAN:
9 Announce the results.

10 Senator Duane.

11 SENATOR DUANE: Thank you,
12 Mr. President.

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

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

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

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

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

12 Thank you, Mr. President.

13 ACTING PRESIDENT MORAHAN: Thank
14 you, Senator Duane.

15 Announce the results.

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

19 Ayes, 55. Nays, 2.

20 ACTING PRESIDENT MORAHAN: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 814, by Senator Bonacic, Senate Print 6659, an
24 act to amend the Highway Law.

25 ACTING PRESIDENT MORAHAN: Read

1 the last section.

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

4 ACTING PRESIDENT MORAHAN: Call
5 the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT MORAHAN:
8 Announce the results.

9 THE SECRETARY: Ayes, 57.

10 ACTING PRESIDENT MORAHAN: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 824, by Senator Alesi, Senate Print --

14 SENATOR SCHNEIDERMAN: Lay it
15 aside.

16 ACTING PRESIDENT MORAHAN: The
17 bill is laid aside.

18 THE SECRETARY: Calendar Number
19 827, by Senator DeFrancisco, Senate Print
20 5062A, an act to amend the Estates, Powers and
21 Trusts Law.

22 ACTING PRESIDENT MORAHAN: Read
23 the last section.

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

1 ACTING PRESIDENT MORAHAN: Call
2 the roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT MORAHAN:
5 Announce the results.

6 THE SECRETARY: Ayes, 57.

7 ACTING PRESIDENT MORAHAN: The
8 bill is passed.

9 THE SECRETARY: Calendar Number
10 828, substituted earlier today by Member of
11 the Assembly Lavine, Assembly Print Number
12 10717, an act to amend the Universal District
13 Court Act.

14 ACTING PRESIDENT MORAHAN: Read
15 the last section.

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

18 ACTING PRESIDENT MORAHAN: Call
19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT MORAHAN:
22 Announce the results.

23 THE SECRETARY: Ayes, 57.

24 ACTING PRESIDENT MORAHAN: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 845, by Senator Trunzo, Senate Print 432, an
3 act to amend the Education Law.

4 ACTING PRESIDENT MORAHAN: Read
5 the last section.

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

8 ACTING PRESIDENT MORAHAN: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT MORAHAN:
12 Announce the results.

13 THE SECRETARY: Ayes, 57.

14 ACTING PRESIDENT MORAHAN: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 853, by Senator Trunzo, Senate Print 3358, an
18 act to amend the Labor Law.

19 ACTING PRESIDENT MORAHAN: Read
20 the last section.

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

23 ACTING PRESIDENT MORAHAN: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT MORAHAN:

2 Announce the results.

3 THE SECRETARY: Ayes, 57.

4 ACTING PRESIDENT MORAHAN: The
5 bill is passed.

6 THE SECRETARY: Calendar Number
7 881, by Senator Skelos, Senate Print 7451, an
8 act to amend the General Business Law.

9 ACTING PRESIDENT MORAHAN: Read
10 the last section.

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

13 ACTING PRESIDENT MORAHAN: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT MORAHAN:
17 Announce the results.

18 THE SECRETARY: Ayes, 57.

19 ACTING PRESIDENT MORAHAN: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 889, by Senator Golden, Senate Print 1826, an
23 act to amend the Penal Law.

24 ACTING PRESIDENT MORAHAN: Read
25 the last section.

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

4 ACTING PRESIDENT MORAHAN: Call
5 the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT MORAHAN:
8 Announce the results.

9 Senator Montgomery.

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

13 ACTING PRESIDENT MORAHAN:
14 Calendar 889.

15 SENATOR MONTGOMERY: Thank you.

16 ACTING PRESIDENT MORAHAN: The
17 Secretary will announce the results.

18 THE SECRETARY: Ayes, 57.

19 ACTING PRESIDENT MORAHAN: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 890, by Senator Golden, Senate Print 1827, an
23 act to amend the Penal Law.

24 ACTING PRESIDENT MORAHAN: Read
25 the last section.

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

4 ACTING PRESIDENT MORAHAN: Call
5 the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT MORAHAN:
8 Announce the results.

9 THE SECRETARY: Ayes, 57.

10 ACTING PRESIDENT MORAHAN: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 891, by Senator Maltese, Senate Print 1870A,
14 an act to amend the Civil Rights Law and
15 others.

16 ACTING PRESIDENT MORAHAN: Read
17 the last section.

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

20 ACTING PRESIDENT MORAHAN: Call
21 the roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT MORAHAN:
24 Announce the results.

25 THE SECRETARY: Ayes, 57.

1 ACTING PRESIDENT MORAHAN: The
2 bill is passed.

3 THE SECRETARY: Calendar Number
4 893, by Senator Padavan, Senate Print 2206, an
5 act to amend the Penal Law, the Vehicle and
6 Traffic Law, and the Criminal Procedure Law.

7 ACTING PRESIDENT MORAHAN: Read
8 the last section.

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

12 ACTING PRESIDENT MORAHAN: Call
13 the roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT MORAHAN:
16 Announce the results.

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

20 Ayes, 54. Nays, 3.

21 ACTING PRESIDENT MORAHAN: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 894, by Senator Padavan, Senate Print 3229, an
25 act to amend the Criminal Procedure Law and

1 the Penal Law.

2 ACTING PRESIDENT MORAHAN: Read
3 the last section.

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

6 ACTING PRESIDENT MORAHAN: Call
7 the roll.

8 (The Secretary called the roll.)

9 ACTING PRESIDENT MORAHAN:
10 Announce the results.

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

15 Ayes, 54. Nays, 4.

16 ACTING PRESIDENT MORAHAN: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 895, by Senator Golden, Senate Print 3374, an
20 act to amend the Penal Law.

21 ACTING PRESIDENT MORAHAN: Read
22 the last section.

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

25 ACTING PRESIDENT MORAHAN: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT MORAHAN:

4 Announce the results.

5 THE SECRETARY: Ayes, 58. Nays,

6 1. Senator Montgomery recorded in the

7 negative.

8 ACTING PRESIDENT MORAHAN: The

9 bill is passed.

10 THE SECRETARY: Calendar Number

11 896, by Senator Leibell, Senate Print 3789, an

12 act to amend the Penal Law.

13 ACTING PRESIDENT MORAHAN: Read

14 the last section.

15 THE SECRETARY: Section 2. This

16 act shall take effect on the first of

17 November.

18 ACTING PRESIDENT MORAHAN: Call

19 the roll.

20 (The Secretary called the roll.)

21 ACTING PRESIDENT MORAHAN:

22 Announce the results.

23 THE SECRETARY: Ayes, 58.

24 ACTING PRESIDENT MORAHAN: The

25 bill is passed.

1 THE SECRETARY: Calendar Number
2 898, by Senator DeFrancisco, Senate Print
3 4051, an act to amend the Criminal Procedure
4 Law.

5 ACTING PRESIDENT MORAHAN: Read
6 the last section.

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

9 ACTING PRESIDENT MORAHAN: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT MORAHAN:
13 Announce the results.

14 THE SECRETARY: Ayes, 58.

15 ACTING PRESIDENT MORAHAN: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 900, by Senator Padavan, Senate Print 4774, an
19 act to amend the Penal Law.

20 ACTING PRESIDENT MORAHAN: Read
21 the last section.

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

25 ACTING PRESIDENT MORAHAN: Call

1 the roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT MORAHAN:

4 Announce the results.

5 THE SECRETARY: Ayes, 58. Nays,

6 1. Senator Duane recorded in the negative.

7 ACTING PRESIDENT MORAHAN: The

8 bill is passed.

9 THE SECRETARY: Calendar Number
10 944, by Senator Volker, Senate Print 6329, an
11 act to amend the Alcoholic Beverage Control
12 Law.

13 ACTING PRESIDENT MORAHAN: Read
14 the last section.

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

17 ACTING PRESIDENT MORAHAN: Call
18 the roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT MORAHAN:

21 Announce the results.

22 THE SECRETARY: Ayes, 59.

23 ACTING PRESIDENT MORAHAN: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 952, by Senator Meier, Senate Print 7706, an
2 act to amend the Tax Law.

3 ACTING PRESIDENT MORAHAN: Read
4 the last section.

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

7 ACTING PRESIDENT MORAHAN: Call
8 the roll.

9 (The Secretary called the roll.)

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

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

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

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

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

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

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

16 Senator Valesky.

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

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

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

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

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

9 Announce the results.

10 THE SECRETARY: Ayes, 59.

11 ACTING PRESIDENT MORAHAN: The
12 bill is passed.

13 The Secretary will read Calendar
14 Number 347.

15 THE SECRETARY: Calendar Number
16 347, by Senator Spano, Senate Print 2975B, an
17 act to amend the Executive Law.

18 ACTING PRESIDENT MORAHAN: Read
19 the last section.

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

23 ACTING PRESIDENT MORAHAN: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT MORAHAN:

2 Announce the results.

3 THE SECRETARY: Ayes, 58. Nays,

4 1. Senator Duane recorded in the negative.

5 ACTING PRESIDENT MORAHAN: The

6 bill is passed.

7 Senator Skelos, that completes the

8 noncontroversial reading of the calendar.

9 SENATOR SKELOS: Thank you,

10 Mr. President.

11 If we could go to the controversial

12 reading, I believe there's one bill.

13 ACTING PRESIDENT MORAHAN: There

14 is one bill.

15 The Secretary will read.

16 THE SECRETARY: Calendar Number

17 824, by Senator Alesi, Senate Print 2417, an

18 act to amend the General Business Law and the

19 Civil Practice Law and Rules.

20 SENATOR SCHNEIDERMAN:

21 Explanation.

22 ACTING PRESIDENT MORAHAN:

23 Senator Alesi, an explanation has been

24 requested.

25 SENATOR ALESI: Thank you.

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

9 Thank you very much, Mr. President.

10 ACTING PRESIDENT MORAHAN: Thank
11 you, Senator Alesi.

12 Senator Schneiderman.

13 SENATOR SCHNEIDERMAN: Thank the
14 sponsor for that brief explanation.

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

17 On the bill, Mr. President.

18 ACTING PRESIDENT MORAHAN:
19 Senator Schneiderman, on the bill.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 sanctions against frivolous litigation.

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

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

16 Thank you, Mr. President.

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

20 Does any other Senator wish to be
21 heard?

22 Debate is closed.

23 The Secretary will ring the bell.

24 The Secretary will read the last
25 section.

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

3 ACTING PRESIDENT MORAHAN: Call
4 the roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT MORAHAN: The
7 Secretary will announce the results.

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

16 Those Senators absent from voting:
17 Senator C. Kruger.

18 Ayes, 35. Nays, 24.

19 ACTING PRESIDENT MORAHAN: The
20 bill is passed.

21 Senator Skelos.

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

25 ACTING PRESIDENT MORAHAN: Yes,

1 there is. We have two motions by Senator
2 Farley.

3 Senator Farley.

4 SENATOR FARLEY: Thank you,
5 Mr. President.

6 I wish to call up my bill, on page
7 48, and offer the following amendments to
8 Calendar Number 864, Senate Print 7585. And I
9 ask that that bill retain its place on the
10 Third Reading Calendar.

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

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

20 ACTING PRESIDENT MORAHAN: The
21 Secretary will read.

22 THE SECRETARY: Calendar Number
23 666, by Senator Larkin, Senate Print 854, an
24 act to amend the Real Property Tax Law.

25 SENATOR FARLEY: Mr. President, I

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

3 ACTING PRESIDENT MORAHAN: Call
4 the roll on reconsideration.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes, 60.

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

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

13 ACTING PRESIDENT MORAHAN: The
14 amendments are received.

15 Senator Skelos.

16 SENATOR SKELOS: Mr. President,
17 there being no further business to come before
18 the Senate, I move we stand adjourned until
19 Wednesday, May 10th, at 11:00 a.m. There
20 being no other business to come before the
21 Senate, the Senate stands adjourned until
22 11:00 o'clock, Wednesday, May 10th.

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

25