NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 7, 2006

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, June 6, the Senate met pursuant to adjournment. The Journal of Monday, June 5, 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 Morahan.

SENATOR MORAHAN: Thank you, Madam President.

On page 38 I offer the following amendments, on behalf of Senator Farley, to Calendar Number 943, Print Number 5948, and I ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR MORAHAN: On behalf of Senator Skelos, on page 35 I offer the following amendments to Calendar Number 880, Senate Bill 7450, and I ask that said bill retain its place on the Third Reading Calendar.

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

its place on the Third Reading Calendar.

SENATOR MORAHAN: Madam President, on page 18, Calendar Number 518, Senate Bill 3645, I offer the following amendments on behalf of Senator Young and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR MORAHAN: Madam President, I wish to call up a bill on behalf of Senator Johnson, Senate Bill 6851, having passed both houses and not delivered to the Governor.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 725, by Senator Johnson, Senate Print 6851, an act to authorize.

SENATOR MORAHAN: Madam President, I now move to reconsider the vote by which the bill was passed and ask that the bill be restored to the order of third reading.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

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

THE PRESIDENT: The amendments are received, and the bill is restored to the Third Reading Calendar.

SENATOR MORAHAN: Madam President, I wish to call up, on behalf of Senator Maziarz, Bill Number 5849B, having passed both houses and not delivered to the Governor.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 432, by Senator Maziarz, Senate Print 5849B, an act to amend the Parks, Recreation and Historic Preservation Law.

SENATOR MORAHAN: Madam President, I now move to reconsider the vote by which the bill passed and ask that the bill be restored to the order of third reading.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

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

THE PRESIDENT: The amendments are received and the bill is restored to its place on the Third Reading Calendar.

SENATOR MORAHAN: Madam President, I wish to call up, on behalf of Senator Farley, Senate Bill 5947, having passed both houses and not yet delivered to the Governor.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 337, by Senator Farley, Senate Print 5947, an act to amend Chapter 355 of the Laws of 2005.

SENATOR MORAHAN: Madam President, I now move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

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

THE PRESIDENT: The bill is restored, and the amendments are received.

SENATOR MORAHAN: Thank you, Madam President.

THE PRESIDENT: You're welcome.

Senator Bonacic.

SENATOR BONACIC: Good morning, Madam President.

On behalf of Senator Balboni, on page number 17 I offer the following amendments to Calendar Number 469, Senate Print Number 6914, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR BONACIC: Thank you.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Good morning, Madam President.

THE PRESIDENT: Good morning, Senator.

SENATOR MEIER: Madam President, I wish to call up Senator Marcellino's bill, Print Number 6862, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 788, by Senator Marcellino, Senate Print 6862, an act to authorize.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

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

THE PRESIDENT: The amendments are received.

Senator Morahan.

SENATOR MORAHAN: Good morning, Madam President.

THE PRESIDENT: Good morning, Senator. It is a good morning.

SENATOR WRIGHT: Madam President, do we have substitutions at the desk?

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 16, Senator DeFrancisco moves to discharge, from the Committee on Judiciary, Assembly Bill Number 8109 and substitute it for the identical Senate Bill Number 5530, Third Reading Calendar 440.

On page 22, Senator Robach moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 10155 and substitute it for the identical Senate Bill Number 7084, Third Reading Calendar 617.

On page 40, Senator Volker moves to discharge, from the Committee on Local Government, Assembly Bill Number 10176 and substitute it for the identical Senate Bill Number 6799, Third Reading Calendar 972.

On page 45, Senator Libous moves to discharge, from the Committee on Transportation, Assembly Bill Number 10139 and substitute it for the identical Senate Bill Number 7512, Third Reading Calendar 1072.

On page 47, Senator Farley moves to discharge, from the Committee on Commerce, Economic Development and Small Business, Assembly Bill Number 10293A and substitute it for the identical Senate Bill Number 7019A, Third Reading Calendar 1093.

On page 48, Senator DeFrancisco moves to discharge, from the Committee on Local Government, Assembly Bill Number 9167 and substitute it for the identical Senate Bill Number 7457, Third Reading Calendar 1114.

On page 54, Senator Balboni moves to discharge, from the Committee on Consumer Protection, Assembly Bill Number 10005 and substitute it for the identical Senate Bill Number 7210, Third Reading Calendar 1195.

On page 70, Senator Volker moves to discharge, from the Committee on Codes, Assembly Bill Number 10913 and substitute it for the identical Senate Bill Number 6754,

Third Reading Calendar 1392.

On page 81, Senator Leibell moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 9284A and substitute it for the identical Senate Bill Number 7172, Third Reading Calendar 1500.

On page 89, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11496A and substitute it for the identical Senate Bill Number 8076, Third Reading Calendar 1582.

And on page 89, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 11497A and substitute it for the identical Senate Bill Number 8077, Third Reading Calendar 1583.

THE PRESIDENT: Substitutions ordered.

Senator Wright.

SENATOR WRIGHT: Madam President, may we have the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 440, substituted earlier by Member of the Assembly Weinstein, Assembly Print Number 8109, an act to amend the General Obligations Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: In relation to Calendar Number 440: Ayes, 40. Nays, 1. Senator Winner recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 453, by Senator Maziarz, Senate Print 2373A, an act to amend the Penal Law and the Agriculture and Markets Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 505, by Senator Seward, Senate Print 2633C, an act to amend the Insurance Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 617, substituted earlier by Member of the Assembly Abbate, Assembly Print Number 10155, an act to repeal paragraph (e) of subdivision 4 of Section 209 of the Civil Service Law.

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, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 713, by Senator Andrews, Senate Print 3386, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

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, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 790, by Senator Marcellino, Senate Print 6932A, an act to authorize the Town of Oyster Bay in the County of Nassau.

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 790 are Senators Bonacic and Larkin. Ayes, 45. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 830, by Senator DeFrancisco, Senate Print 6930, Concurrent Resolution of the Senate and Assembly.

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The resolution is passed.

THE SECRETARY: Calendar Number 832, by Senator DeFrancisco, Senate Print 7197, an act to amend the General Obligations Law.

THE PRESIDENT: Read the last

section.

SENATOR WRIGHT: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 876, by Senator Maziarz, Senate Print 5719B, an act to amend the General Business Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Maziarz, to explain your vote.

SENATOR MAZIARZ: Thank you very much, Madam President. To explain my vote.

This bill has been in negotiation for a couple of years now, and we have an agreement with the Assembly.

But I want to make it as clear as possible that the practice of certain -- of a certain well-known national magazine to give you a free six-month trial period during which

you can cancel and not receive any more magazines, who then turn around and charge you for the months you have not received when you cancel, will be prohibited under this legislation as well.

In no way should a consumer at the end of a free trial offer have to pay for services or magazines that they have received or -- have received or have not yet received.

This bill was also negotiated with the Attorney General, Madam President, who is on board with it. Thank you very much.

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 46. Nays, 1. Senator Maltese recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 972, substituted earlier today by Member of the Assembly Schimminger, Assembly Print Number 10176, an act to amend the Local Finance Law.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

And Senator Maziarz will be recorded as voting in the affirmative on S5719B.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 977, by Senator Skelos, Senate Print 7179A, an act to authorize.

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 977 are Senators Bonacic, Larkin and Rath.

Ayes, 44. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 978, by Senator Skelos, Senate Print 7180B, an act to authorize.

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 978 are Senators Bonacic, Larkin and Rath.

Ayes, 44. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 989, by Senator Little, Senate Print 7754, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1022, by Senator Young, Senate Print 7572, an act to amend the Agriculture and Markets Law.

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, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1066, by Senator Larkin, Senate Print 7111, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1066 are Senators Farley, Little, Maziarz, Seward and Winner.

Ayes, 43. Nays, 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1067, by Senator Larkin, Senate Print 7143A, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect one year after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1072, substituted earlier today by Member of the Assembly Gantt, Assembly Print Number

10139, an act to amend Chapter 268 of the Laws of 1989.

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, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1093, substituted earlier today by Member of the Assembly McEneny, Assembly Print Number 10293A, an act to amend the State Administrative Procedure Act.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1114, substituted earlier today by Member of the Assembly Christensen, Assembly Print Number 9167, an act to amend the Real Property Tax Law.

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, 47. Nays, 1. Senator Larkin recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1115, by Senator Trunzo, Senate Print 7536, an act in relation to authorizing.

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 1115 are Senators Bonacic and Larkin.

Ayes, 46. Nays, 2.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1119, by Senator Morahan, Senate Print 7252, an act to amend the Mental Hygiene Law.

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, 48.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1189, by Senator Fuschillo, Senate Print 2601, an act to amend the General Business Law and the Executive Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Marcellino, to explain your vote.

SENATOR MARCELLINO: Thank you, Madam President.

I rise to commend my colleague Senator Fuschillo for this bill. Recently a 2-year-old boy in my district was found dead in a pool that he had gotten into. No one knew it, no one heard it, and a young child is dead.

It is absolutely an imperative that we take whatever precautions, put on whatever devices should be put onto the pools, fences, gates, to make sure that should a tragedy like this happen, the family's neighbors are warned. At least somebody might have been able to reach that child before he expired.

This is a good bill. Thank you, Senator Fuschillo. I vote aye.

THE PRESIDENT: You will be recorded as voting in the affirmative, Senator Marcellino.

The Secretary will announce the

results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1189 are Senators Coppola, Little, Meier and Savino. Also Senator Seward. Also Senator Winner. Also Senator Robach.

Ayes, 44. Nays, 7.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1194, by Senator Fuschillo, Senate Print 7192A, an act to amend the General Business Law.

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, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1195, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number

10005, an act to amend the General Business Law.

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, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1201, by Senator Saland, Senate Print 7630, an act to amend the General Business Law.

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, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1225, by Senator Marcellino, Senate Print

3569A, an act to amend the Environmental Conservation Law and others.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 16. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1228, by Senator Bonacic, Senate Print 5264B, an act to amend the Environmental Conservation Law.

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, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

1229, by Senator Little, Senate Print 5288, an act to amend the Environmental Conservation Law and the County Law.

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, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1259, by Senator Robach, Senate Print 5791, an act to amend the Civil Service Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam

President.

Well-intentioned and needed though this commission on increasing diversity in state government is, I cannot vote for it. And I just want my colleagues -- actually on both sides of the aisle, but particularly this side of the aisle, to know why I'm not voting for it.

There is no minority party representation on this commission, and I don't really think that's a way to do business. I think that we need to make sure that all parties who play a role in state government should be a part of a commission such as this.

And so I would recommend to my colleagues that we vote no on this, because commissions such as this, particularly independent commissions -- of course you would hope most commissions would be independent, but when they're actually called "independent commissions," they should have representation from the minority parties of both houses of the Legislature.

So I would suggest that my colleagues here today -- on both sides of the

aisle, of course, would be welcome to vote no -- but particularly on this side of the aisle vote no on this particular bill.

Thank you, Madam President. I'll be voting no.

THE PRESIDENT: And you will be so recorded as voting in the negative, Senator.

The Secretary will announce the results.

Would those members voting in the negative please raise your hand.

Senator Breslin, to explain your vote.

SENATOR BRESLIN: Thank you, Madam President, to explain my vote.

I commend Senator Robach for proposing legislation, because anytime we increase diversity in state government it's a benefit.

But I have to totally agree with my fellow Senator, Senator Duane, who talks about the participation in government that make those decisions.

And when you exclude the minorities

in each house from that process -- and ironically, in a bill when you're creating diversity -- and no one has more diversity than the Senate minority. So it speaks for itself that we should be involved, and accordingly I vote nay.

THE PRESIDENT: You will be recorded, Senator Breslin, as voting in the negative on this bill.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1259 are Senators Breslin, Dilan, Duane, Hassell-Thompson, L. Krueger, Oppenheimer, Parker, Paterson, Sabini, Savino, M. Smith, Stachowski and Stavisky. Also Senator Onorato.

Ayes, 39. Nays, 14.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1283, by Senator Winner, Senate Print 7289, an act to ratify, legalize and validate certain acts and proceedings.

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, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1286, by Senator Wright, Senate Print 7518, an act in relation to authorizing.

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, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1359, by Senator Flanagan, Senate Print 3709, an act to amend the Vehicle and Traffic Law.

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, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1360, by Senator Johnson, Senate Print 6852A, an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first day of the quarterly period.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1375, by Senator Volker, Senate Print 192, an act to repeal the closing paragraph of subdivision 4 of Section 2.10 of the Criminal

Procedure Law.

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 1375 are Senators Duane, L. Krueger and Parker.

Ayes, 50. Nays, 3.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1377, by Senator Nozzolio, Senate Print 503A, an act to amend the Criminal Procedure Law.

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

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1384, by Senator Spano, Senate Print 3139, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1389, by Senator Young, Senate Print 6237, an act to amend the Criminal Procedure Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to

explain your vote.

SENATOR DUANE: Thank you, Madam President.

I'm going to vote against this bill, which denies youthful offender treatment to persons convicted of Class B violent felony offenses.

And I actually believe that we should be adding more categories to the youthful offender status, not taking away youthful offender status. And I also think that we need to make sure that there's discretion in all of these cases.

I think it's a tragedy that we seem to be so much more interested, in this body, in locking up our at-risk children. I think it's more important that we look at each case on an individual basis, because usually the circumstances are quite unique.

And at the very least, we should have a hearing on this whole issue of youthful offender status.

You know, I have to think and I believe that mental health experts and criminal justice experts would probably agree

that children who commit violent crimes might in fact be deterred from committing violent crimes if they got the proper mental health treatment. But of course many New York families can't afford mental health treatment for their families because we have yet to pass Timothy's Law in this body.

With the passage of Timothy's Law, more New York families would be able to pay for chemical and addiction treatment, other kinds of mental health problems. But instead, we want to just throw away the key on young people rather than try to get them the professional help that they need.

I don't know why we're so afraid of trying to help young people. I don't know why we're so afraid of passing Timothy's Law.

Another week has gone by; more families are still lacking in mental health care treatment because they can't afford it. And what are we doing about? Absolutely nothing.

Now we have two weeks left. Are we going to really be the disgrace of the New York State Legislature by not passing

Timothy's Law in the State Senate? I hope not. I hope not. Come on. It's time to do the right thing. It's time to make sure that all families are able to get the mental health care that they need and deserve. Let's get Timothy's Law on the floor of the Senate here, and let's get it passed.

Thank you, Madam President.

THE PRESIDENT: You will be recorded as voting in the negative on this bill, Senator.

Senator Young, to explain your vote.

SENATOR YOUNG: Thank you, Madam President, to explain my vote.

I sponsored this bill for many reasons. But basically what it does, it changes the youthful offender status for teenage criminals age 16 to 18 so that all who are convicted under Class B violent felonies would be included and not be able to get youthful offender status any longer.

And this is so important because we're talking about serious crimes. These are dangerous crimes committed by dangerous

people. Among the crimes that would be added so that they could no longer get youthful offender status are attempted second-degree murder, first-degree manslaughter, first-degree robbery and burglary if no firearm is used, second-degree arson, and kidnapping.

And that's why this is so important. Because when a teenager commits this level of violent crime, there should be consequences. We should protect society from dangerous people.

And I want to thank my colleagues for voting for this particular bill, and I vote in the affirmative.

THE PRESIDENT: You will be recorded as voting in the affirmative, Senator Young.

The Secretary will soon announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 1389 are Senators Duane, Hassell-Thompson, L. Krueger, Parker and Schneiderman.

Ayes, 49. Nays, 5.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1392, substituted earlier today by Member of the Assembly Titus, Assembly Print Number 10913, an act to amend the Civil Rights Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1393, by Senator DeFrancisco, Senate Print 6838, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1395, by Senator LaValle, Senate Print 7117A, an act to amend the Penal Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 32. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1410, by Senator Winner, Senate Print 6940, an act to amend the Highway Law.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1419, by Senator Johnson, Senate Print 7447B, an act to amend the Vehicle and Traffic Law.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1421, by Senator Young, Senate Print 7777, an act to amend the Highway Law, in relation to designating a portion of Route 16 within the County of Cattaraugus as the "Senator Patricia K. McGee 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 PRESIDENT: Senator Young, to explain your vote.

SENATOR YOUNG: Thank you, Madam President, to explain my vote.

I think it's very fitting that we have this tribute to Senator Patricia K. McGee pass today in the Legislature. This morning there was a very moving ecumenical service in memory of the deceased members of the Legislature who have passed away over the past year.

And I want to thank my colleague Senator Dale Volker for his dedication to making sure that memorial service happens every single year. And that's wonderful, Dale, and thank you so much for doing that.

Senator Pat McGee was many things, but she most of all was a dedicated public servant who spent 10 years in the Cattaraugus County Legislature, 14 years in the State Assembly, and then six years in the State Senate. And unfortunately we lost her, she

passed away on April 2nd of 2005. But in our district, her memory lives on.

This is a great tribute to Senator McGee, because it's Route 16, which starts at the Pennsylvania border and winds all the way up north through Cattaraugus County and ends up in Delevan, where Pat McGee was born.

Pat McGee, however, lived in Franklinville. And this particular roadway goes through her beloved town where she lived for many, many years. And she drove on this road every single day.

So this is why it's so important. We'll be doing a dedication ceremony in my district later on this year. But again, I want to thank my colleagues for passing this legislation today.

I vote yes.

THE PRESIDENT: And you will be so recorded, Senator Young.

Senator Hassell-Thompson, to explain your vote.

SENATOR HASSELL-THOMPSON: Yes, thank you, Madam President.

Six years ago, when I first came to

the State Senate, one of the first people that I found to be very open and friendly and supportive was Pat McGee.

You always commented to the fact that she was the person who made sure that your resolutions were seconded. Well, she just was that way for all of us, and certainly for me.

And she and I became personal friends, and she gave me a lot of guidance. And I really miss that. And I thank you, Senator Young, for this tribute and the opportunity to vote on something very special for someone that I think is a very special woman.

THE PRESIDENT: You will be recorded as voting in the affirmative, Senator Hassell-Thompson.

Senator Volker, to explain your vote.

SENATOR VOLKER: Madam President, I just want to comment quickly.

The memorial service this morning probably was one of the more difficult ones for me, because there were so many people who

were really close to me who died in the past year, with the recent death of Betty Connelly and obviously Pat McGee and Sandra Lee Wirth and so many.

But let me just say I want to thank Senator Young for working this out. The interesting part of it is that there were so many highways that people wanted to name after Senator McGee -- part of 219, if I remember right, 352, and all sorts of things. I think that's one of the reasons why it took a little time to finally come up with Route 16, which I think really, really a fitting tribute for her. I thank you for doing that.

And one of the things that I firmly believe is that people do not realize the value and the importance of the people who have been in this chamber and in the other chamber to the lives of the people of this state.

And one of the things is -- and when I go down to Long Island and I get on the expressway down there -- and in the middle of the night one night I was driving along, and there was the Norman Levy Expressway. And it

kind of just jars you when you see that and realize that it's someone that you knew so well.

So thank you, Senator Young, and I vote in the affirmative.

THE PRESIDENT: You will be recorded as voting in the affirmative, Senator Volker.

The Secretary will announce the results.

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1430, by Senator Rath, Senate Print 6423, an act to amend the Real Property Tax Law.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1474, by Senator Flanagan, Senate Print 7911, an act to amend Chapter 237 of the Laws of 2005 amending the Election Law.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1477, by Senator Morahan, Senate Print 7063, an act authorizing the Greenwood Lake Union Free School District.

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.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 1481, by Senator Saland, Senate Print 7696, an act to amend the Education Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect September 1, 2006.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1486, by Senator LaValle, Senate Print 4803, an act --

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

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

THE SECRETARY: Calendar Number 1500, substituted earlier today by Member of the Assembly Destito, Assembly Print Number 9284A, an act --

SENATOR WRIGHT: Lay it aside for

the day, please.

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

THE SECRETARY: Calendar Number 1528, by Senator Larkin, Senate Print 7156, an act to authorize the City of Kingston.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1582, substituted earlier today by Member of the Assembly Silver, Assembly Print Number 11496A, an act to amend the Public Health Law.

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.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 1583, substituted earlier today by Member of the Assembly Silver, Assembly Print Number 11497A, an act to amend the Public Health Law.

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.

THE PRESIDENT: The bill is passed.

Senator Wright, that completes the reading of the calendar.

SENATOR WRIGHT: Thank you, Madam President.

I'd like to announce an immediate meeting of the Rules Committee to be convened in the Majority Conference Room.

THE PRESIDENT: There will be an

immediate meeting of the Rules Committee in the Majority Conference Room.

SENATOR WRIGHT: And for the members' information, we anticipate that upon completion of the Rules Committee meeting we will accept a Rules report for Monday and then we will adjourn.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Golden, on page number 68 I offer the following amendments to Calendar Number 1372, Senate Print Number 6622, 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.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 11:53 a.m.)

(Whereupon, the Senate reconvened at 12:09 p.m.)

SENATOR BALBONI: Madam President.

ACTING PRESIDENT LITTLE: Senator Balboni.

SENATOR BALBONI: May we please return to the reports of standing committees.

I believe there's a report of the Rules Committee at the desk.

ACTING PRESIDENT LITTLE: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 198, by Senator Trunzo, an act to amend the Public Authorities Law;

1029, by Senator Sampson, an act to amend the Penal Law;

1263, by Senator Padavan, an act to amend the Criminal Procedure Law;

1373, by Senator Seward, an act to amend the Real Property Tax Law;

1977, by Senator Nozzolio, an act to amend the Executive Law and the Military Law;

2369A, by Senator Marcellino, an

act to require;

2431B, by Senator Padavan, an act to amend the Tax Law;

3304C, by Senator Winner, an act to amend the Education Law;

3332B, by Senator Seward, an act authorizing;

3335, by Senator Maziarz, an act in relation to authorizing;

3704, by Senator Alesi, an act to amend the Executive Law;

3927A, by Senator Rath, an act to amend the Tax Law;

4169A, by Senator Skelos, an act to amend the Tax Law;

4674C, by Senator Spano, an act to authorize;

4722, by Senator Leibell, an act to amend the Public Authorities Law;

4912B, by Senator Little, an act to grant;

4936A, by Senator Rath, an act to amend the Correction Law;

5180, by the Senate Committee on Rules, an act authorizing;

5231A, by Senator Flanagan, an act to amend the Correction Law;

5681A, by Senator Volker, an act to amend the Tax Law;

5772, by Senator Duane, an act to amend the Criminal Procedure Law;

6008, by Senator Larkin, an act to amend the Social Services Law and the Real Property Tax Law;

6430, by Senator Volker, an act in relation to granting;

6515, by Senator Leibell, an act to amend the Real Property Tax Law;

6658, by Senator Rath, an act to amend the Tax Law;

6681, by Senator Wright, an act to amend the Social Services Law;

6688, by Senator Young, an act to authorize;

6719, by Senator Padavan, an act to amend the Retirement and Social Security Law;

6785A, by Senator Johnson, an act to authorize;

6816, by Senator Winner, an act to amend the New York State Urban Development

Corporation Act;

6819, by Senator Young, an act to amend the Tax Law;

6856, by Senator Larkin, an act to authorize;

6953A, by Senator Bonacic, an act to amend the Real Property Tax Law;

7003, by Senator Morahan, an act to authorize;

7016, by Senator Young, an act to exempt;

7022, by Senator Wright, an act authorizing;

7309, by Senator Flanagan, an act to authorize;

7333A, by Senator Marcellino, an act to authorize;

And Senate Print 7843, by Senator Morahan, an act to amend the Penal Law and others.

All bills ordered direct to third reading.

ACTING PRESIDENT LITTLE: Senator Balboni.

SENATOR BALBONI: Yes, Madam

President. I move that we accept the report of the Rules Committee.

ACTING PRESIDENT LITTLE: All those in favor of accepting the report of the Rules Committee say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed?

(No response.)

ACTING PRESIDENT LITTLE: The report is accepted.

SENATOR BALBONI: Madam President, I'd like to at this time call up my bill, Print Number 184, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read.

THE SECRETARY: Calendar Number 464, by Senator Balboni, Senate Print 184, an act to amend the Executive Law.

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

ACTING PRESIDENT LITTLE: The

Secretary will call the roll to reconsider the vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

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

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR BALBONI: Madam President, I wish to note that on page number 82 I offer the following amendments, on behalf of Senator Volker, to Calendar Number 1512, Senate Print 5124A, and ask that the said bill retain its place on the Third Reading Calendar.

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

SENATOR BALBONI: And with that, Madam President, is there any other housekeeping at the desk?

ACTING PRESIDENT LITTLE: No, there is not, Senator Balboni.

SENATOR BALBONI: There being no further business, I move we adjourn until Monday, June 12th, at 3:00 o'clock, intervening days being legislative days.

ACTING PRESIDENT LITTLE: On motion, the Senate stands adjourned until Monday, June 12th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:14 p.m., the Senate adjourned.)