NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 30, 2008

11:07 a.m.

REGULAR SESSION

SENATOR JOSEPH ROBACH, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT ROBACH: The Senate will 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.)

ACTING PRESIDENT ROBACH: In the absence of clergy, may we bow our heads for a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT ROBACH: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 29, the Senate met pursuant to adjournment. The Journal of Monday, April 28, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT ROBACH: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

As a member of the Public Employment Relations Board, Robert Hite, of Albany;

As a member of the State Environmental Board, Luis Garden Acosta, of Brooklyn;

As a member of the Empire State Plaza Art Commission, Hilary Dunne Ferrone, of Spencertown;

As a member of the Central New York State Park, Recreation and Historic Preservation Commission, John D. Marsellus, of Fayetteville;

As members of the Finger Lakes State Parks, Recreation and Historic Preservation Commission, Walter David Banfield, of Ithaca; Mary Ann Burns, of Smithboro; Richard Reidy, of Elmira; and Amy H. Wilson, of Elmira;

As a member of the Long Island State Park, Recreation and Historic Preservation Commission, Paul J. Tonna, of Huntington;

As a member of the Niagara Frontier State Park, Recreation and Historic Preservation Commission, Lucinda Abbott Letro, of Buffalo;

As a member of the State Park, Recreation and Historic Preservation Commission for the City of New York, Janet Felleman, of New York City;

As a member of the Saratoga-Capital District State Park, Recreation and Historic Preservation Commission, Mark T. Ryan, of Mechanicville;

As members of the Veterans' Affairs Commission, James R. Edgar, of Schenectady; Michelle R. Lindsay, of Stillwater; and Kevin G. McKenna, of Wynantskill;

As members of the Mental Health Services, Eli B. Hoch, Ph.D., of Rego Park; Neville B. Morris, of Endwell; and Moira A. Rynn, of Manhattan;

As a member of the Board of

Visitors of the New York State Home for Veterans and their Dependents at Batavia, Charles R. Sickmond, of Bergen;

As a member of the Board of Visitors of the Central New York Developmental Disabilities Services Office, Roger A. Benn, of Cazenovia;

As a member of the Board of Visitors of the St. Lawrence Psychiatric Center, Orman D. Bomyea, of Malone;

And as a member of the Board of Visitors of the New York State Home for Veterans and their Dependents at Oxford, John DePersis, of Johnson City.

ACTING PRESIDENT ROBACH: Senator O. Johnson, in regard to the nominations.

SENATOR OWEN JOHNSON: Move the nominations.

ACTING PRESIDENT ROBACH: We will move the nominations as read by the Secretary. All in favor of the nominations signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The nominations are therefore confirmed.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Are there any substitutions at the desk?

ACTING PRESIDENT ROBACH: We have two substitutions.

SENATOR SKELOS: If we can make them at this time, please.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: On page 30, Senator Volker moves to discharge, from the Committee on Codes, Assembly Bill Number 8647C and substitute it for the identical Senate Bill Number 3166F, Third Reading Calendar 637.

And on page 37, Senator Volker moves to discharge, from the Committee on Local Government, Assembly Bill Number 8388B and substitute it for the identical Senate

Bill Number 5561B, Third Reading Calendar 776.

ACTING PRESIDENT ROBACH: The substitutions are ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar at this time.

ACTING PRESIDENT ROBACH: All in favor of adopting the Resolution Calendar signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 449, by Senator Larkin, Senate Print 4497A, an act to direct the Commissioner of Education.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 453, by Senator Bonacic, Senate Print 6455A, an act authorizing the Commissioner of Education to disregard a reduction.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number

456, by Senator Seward, Senate Print 6985, an act providing for the creation of a temporary special advisory panel.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 500, by Senator Maziarz, Senate Print 2308, an act to amend the Environmental Conservation Law, in relation to regulatory program fees.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 522, by Senator Bonacic, Senate Print 6903A, an act to amend the Highway Law, in relation to designating.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 637, substituted earlier by Member of the Assembly Weinstein, Assembly Print Number 8647C, an act to amend the Civil Practice Law and Rules, in relation to orders of attachment.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of January next succeeding.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 703, by Senator Libous, Senate Print 3570, an act to amend the Public Authorities Law, in relation to conforming.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 120th day.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I'm going to vote against this bill because one of the provisions allows for the

suspension of a car's registration due to unpaid toll collections.

You know, many New Yorkers are living in one-car families. And particularly with the increased price of gasoline, I think it's going to become even more prevalent as time goes on. But even today, many New Yorkers live in a one-car family. And if we take away the registration for a car, it means that family members may not be able to go to work or a doctor's appointment or to bring a child to daycare.

And, you know, I don't care if we charge fines for not paying tolls. But the harshness of taking away a registration and the potentially devastating economic impact that could have on an entire family I think is too harsh.

So I'm going to be voting no on this bill, with the hope that at least the provision of the removal of the registration will be taken away, and then I could in good conscience vote for it. But to make it impossible for a family to use a car for health reasons or for a job I think is just

not appropriate.

So I'll be voting no, and I do urge my colleagues also to vote no.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Duane, you will be recorded in the negative.

Announce the results.

THE SECRETARY: Ayes, 49. Nays, 2. Senators Adams and Duane recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 745, by Senator Sampson, Senate Print 115, an act to amend the Penal Law, in relation to changing sexual abuse in the second degree.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT ROBACH: The

bill is passed.

THE SECRETARY: Calendar Number 776, substituted earlier today by Member of the Assembly Gabryszak, Assembly Print Number 8388B, an act to authorize the County of Erie.

ACTING PRESIDENT ROBACH: A home-rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 784, by Senator DeFrancisco, Senate Print 6951, an act to amend the Real Property Tax Law, in relation to volunteer firefighters.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 790, by Senator LaValle, Senate Print 815, an act to amend the Mental Hygiene Law, in relation to a pilot program.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 1. Senator L. Krueger recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 792, by Senator Rath, Senate Print 2964, an act to amend the Alcoholic Beverage Control Law, in relation to unlawful possession.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 810, by Senator Volker, Senate Print 5763, an act to amend the Criminal Procedure Law, in relation to post-indictment issuance.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number

814, by Senator DeFrancisco, Senate Print 7446, an act to amend the Executive Law, in relation to missing and vulnerable adults.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 829, by Senator Maltese, Senate Print 808, an act to amend the Public Officers Law, in relation to the residence of deputy sheriffs.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 835, by Senator Lanza, Senate Print 4381, an act to amend the Penal Law, in relation to criminal street gang recruitment.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 60th day.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 2. Senators Duane and Montgomery recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 850, by Senator Trunzo, Senate Print 886, an act to amend the Vehicle and Traffic Law, in relation to speeding.

ACTING PRESIDENT ROBACH: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 180th day.

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 2. Senators Duane and Montgomery recorded in the negative.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 852, by Senator Padavan, Senate Print 1844, an act to amend the Vehicle and Traffic Law and the Administrative Code of the City of New York, in relation to conversion.

ACTING PRESIDENT ROBACH: A local fiscal impact note is at the desk.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 853, by Senator Larkin, Senate Print 1919, an act to amend the Vehicle and Traffic Law, in relation to tow truck operator safety.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT ROBACH: The bill is passed.

THE SECRETARY: Calendar Number 854, by Senator Fuschillo, Senate Print 4296, an act to amend the Vehicle and Traffic Law, in relation to establishing.

ACTING PRESIDENT ROBACH: A home-rule message is at the desk.

Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT ROBACH: The bill is passed.

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

SENATOR VOLKER: Is there any further business at the desk?

ACTING PRESIDENT ROBACH: There is not.

SENATOR VOLKER: There being no further business, I move we adjourn until Monday, May 5th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT ROBACH: On motion, the Senate stands adjourned until Monday, May 5th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:23 a.m., the Senate adjourned.)