NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 14, 2008

11:14 a.m.

REGULAR SESSION

SENATOR JOHN J. FLANAGAN, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FLANAGAN: 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 FLANAGAN: In the absence of clergy, I would ask that everyone join me in a moment of silence.

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

ACTING PRESIDENT FLANAGAN: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 13, the Senate met pursuant to adjournment. The Journal of Monday, May 12, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Morahan, on page number 66 I offer the following amendments to Calendar Number 1099, Senate Print Number 8047, and ask that said bill retain its place on the order of Third Reading Calendar.

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

Thank you, Senator Fuschillo.

SENATOR FUSCHILLO: Thank you very much, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Skelos.

SENATOR SKELOS: Mr. President,

Senator Little's resolution, 5907, was previously adopted by the Senate on May 13th. If we could have the title read once again, and then she'd like to open it up for cosponsorship.

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: By Senator Little, Legislative Resolution Number 5907, memorializing Governor David A. Paterson to proclaim May 12 through 18, 2008, as Fibromyalgia Awareness Week in the State of New York.

ACTING PRESIDENT FLANAGAN: Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

It is my pleasure and honor to have this resolution before this body, and we do open it up to all members.

Fibromyalgia is an often misdiagnosed and misunderstood disease, yet it affects 10 million Americans, mostly women, although men also can have it as well. It has no barriers as to who can be affected by

fibromyalgia.

It's very difficult to diagnose, and many people end up going for numerous tests before they are actually diagnosed with fibromyalgia. Fibromyalgia is a chronic disease. There is no cure.

ACTING PRESIDENT FLANAGAN: Senator Little, excuse me.

Can we have some order.

SENATOR LITTLE: There is no cure for this disease. The idea is to try to help the patient live with fibromyalgia.

Personally, I became aware of this disease when a very close friend of mine was finally diagnosed as having fibromyalgia, and interesting to listen to her as to what are the effects on her life.

She told me, if you can think about the chest protector that they put on you in the dentist's office to prevent when they do x-rays, she said: "There are mornings when I wake up and my whole body feels like I am just under that kind of a whole, heavy protector and really have difficulty functioning throughout the day."

So their lives are totally affected in many, many different ways. And this is a resolution to declare this week an awareness week so that we, as their friends and colleagues and people that may be able to help those who have fibromyalgia, will understand it better.

We have a group here in the chamber with us, and they are sponsoring and holding an awareness program in the Plaza today from 11:00 until 2:00. I would invite everyone to attend.

But I also thank them for coming and for helping us put a face on a disease that is affecting so many Americans and is so often misdiagnosed -- that's really the key here -- and then it is misunderstood by many other people.

So thank you for presenting the resolution, and I invite all to join me on that resolution.

Thank you.

ACTING PRESIDENT FLANAGAN: Thank you, Senator Little.

This resolution has been previously

passed. It has been opened up for cosponsorship to everyone. If you do not wish to be put on as a cosponsor, please notify the desk.

Senator Skelos.

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

ACTING PRESIDENT FLANAGAN: The Secretary will read.

THE SECRETARY: Calendar Number 705, by Senator Golden, Senate Print 4157D, an act to amend the Vehicle and Traffic Law and the Education Law, in relation to electronic monitoring equipment.

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

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 130th day.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FLANAGAN: Senator Golden, to explain his vote.

SENATOR GOLDEN: Thank you, Mr. President.

Every morning across this great state, parents put their children on buses to take their students to schools. Today in our balconies we have children from this great state coming here to witness government in action, and many of those kids take a bus to get to and from school.

And our parents trust the system. When they send their child out, they believe that their child is getting on that bus safely, secured, delivered to school and delivered home after the school day.

It's unfortunate, in cases that we've seen in the New York City and New York State area, where we've seen bus drivers that are careless, that have been removed from the buses. We've seen students that have reacted in a way that was unsafe, and we've had to punish those children.

We believe that the legislation that we're about to pass today -- monitoring those buses, monitoring the bus driver, monitoring the actions of those on the bus --

gives that peace of mind to the parents and to our schools across the State of New York that that bus driver is acting safely and that their children are getting to and from school safely.

And that camera will also monitor sound and speed of that bus so that we know that that bus driver is acting safely and is securing those children to and from their homes and school.

We're proud of this bill. This is a bill that will have a major impact on securing the safety of our children. That electronic monitoring system will also record, like I said, the speed and the sound of that bus. It will also affect the system. It will be like a black box in our bus for up to 90 days, for a select few to be able to go in there and to review it and to take action against those that may have violated the trust of our children.

So today is a great day. And I ask my colleagues to vote for this, and hopefully over in the Assembly they will vote for it as well, and that the Governor will sign this

bill into legislation and give that peace of mind for all of our parents and all of our children across this state.

Thank you, Mr. President.

ACTING PRESIDENT FLANAGAN: Senator Golden will be recorded in the affirmative.

Senator Adams, to explain his vote.

SENATOR ADAMS: Thank you, Mr. President.

I want to applaud my colleague Senator Golden on this excellent piece of legislation.

And I believe that we should no longer be afraid of technology. And as you know, earlier this week I sent around a prototype of putting a camera on a firearm for police officers. Because if we can put cameras on poles and cameras in buildings and cameras in cars, we should also use cameras to protect our children on school buses and allow us to protect our citizens and our officers by having modern technology such as cameras placed on firearms as well as in school buses.

Technology is here, we should not

be afraid of technology, we should embrace technology. It is user-friendly to make sure that we can protect and become the eyes of our loved ones, particularly our children, and as well as our law enforcement officers and those who come in contact with them.

So I applaud you, Senator Golden, and I hope that we will continue to ensure that our state leads in innovation and make sure all of our offices as well as our school buss are armed with the technology that will make our citizens safe.

I vote aye.

ACTING PRESIDENT FLANAGAN: Senator Adams will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 58. Nays, 0.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 770, by Senator O. Johnson, Senate Print 7171B, an act to amend the Public Service Law and the Public Authorities Law, in relation to

net energy metering.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FLANAGAN: Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Thank you very much, Mr. President. Just very briefly to explain my vote.

I want to commend my colleague Senator Owen Johnson. The concept of net metering is something that is in law in several states.

I think that in New York, hopefully within the next five and a half weeks that we have left in this session, working very closely with Senator Johnson's staff, with my counterparts over in the Assembly, that we are going to have a net metering law in the State of New York.

It's important for consumers, it's

important for the energy market here in New York State. And I vote in the affirmative, Mr. President.

Thank you.

ACTING PRESIDENT FLANAGAN: Senator Maziarz will be recorded in the affirmative.

Senator Parker, to explain his vote.

SENATOR PARKER: Yes, thank you, Mr. President.

I want to stand and add my voice to the chair of the Energy Committee in congratulating Senator Johnson on putting forth a bill that is exactly what we ought to be doing now, which is creating opportunities to encourage people to use alternative energy.

This bill is good because it includes new categories of alternative energy and makes sure that not only residential but also commercial buildings are engaging in greening the State of New York.

Thank you very much, Senator Johnson. I vote aye.

ACTING PRESIDENT FLANAGAN:

Senator Parker will be recorded in the affirmative.

And I never thought I could see anyone who would rival John Bonacic for his spring line of clothing.

(Laughter.)

ACTING PRESIDENT FLANAGAN: Announce the results.

THE SECRETARY: Ayes, 58. Nays, 0.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 830, by Senator Rath, Senate Print 1671A, an act to amend the Tax Law, in relation to small business.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The

bill is passed.

THE SECRETARY: Calendar Number 837, by Senator Lanza, Senate Print 5802A, an act to amend the Penal Law and the Criminal Procedure Law, in relation to revocation.

ACTING PRESIDENT FLANAGAN: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 837 are Senators Duane, Montgomery, Parker and Perkins.

Ayes, 54. Nays, 4.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 858, by Senator Volker, Senate Print 7210, an act to amend the Highway Law, in relation to adding.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 860, by Senator Libous, Senate Print 7398, an act to amend the Highway Law, in relation to lighting.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 921, by Senator C. Kruger, Senate Print 7429, an act to amend the Family Court Act, in

relation to juvenile delinquency preliminary procedures.

ACTING PRESIDENT FLANAGAN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 971, by Senator Young, Senate Print 7564, an act to amend the Agriculture and Markets Law and the Environmental Conservation Law, in relation to farm pond dams.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FLANAGAN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 971 are Senators Adams, Breslin, Connor, Dilan, Duane, Huntley, Klein, L. Krueger, LaValle, Marcellino, Montgomery, Onorato, Padavan, Parker, Perkins, Sabini, Savino, Schneiderman, Serrano, Stachowski, Stavisky and Stewart-Cousins. Also Senator C. Johnson. Also Senator Morahan.

Ayes, 34. Nays, 24.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1040, by Senator Maziarz, Senate Print 44, an act to amend the Correction Law, in relation to prohibiting.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1041, by Senator Alesi, Senate Print 172B, an act to amend the Correction Law, the Executive Law and the Penal Law, in relation to residency.

ACTING PRESIDENT FLANAGAN: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 60th day.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1044, by Senator Alesi, Senate Print 277, an act to amend the Correction Law, in relation to work release programs.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT FLANAGAN: Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Yes, thank you, Mr. President.

Briefly, this is a piece of legislation that cites "a multitude of problems with work release programs for inmates." It provides no more specificity than that.

It would prohibit us from setting work release programs up in the residential communities from which prisoners come. This is completely contrary to all of the science of criminal justice that tells us the most important element in our system that is missing in the State of New York is a competent series of reentry programs to get people back in the communities they come from.

If we pass a law which prohibits us from operating work release programs in areas zoned residential, that undercuts the entire effort. And I think, quite honestly, the multitude of problems that are cited don't really exist.

I think the people in the State of New York who are working in these programs -- the Department of Corrections, Probation -- are really doing wonderful work in setting up reentry programs that work and setting up work release programs that enable people to get some preparation for their release from prisons.

Do not forget, ladies and gentlemen, they may be in prison for a while, but they all come home. This bill makes it harder for them to come home as productive working members of their society.

I urge everyone to vote no.

ACTING PRESIDENT FLANAGAN: Senator Schneiderman will be recorded in the negative.

Announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 1044 are Senators Duane, L. Krueger, Montgomery, Parker, Perkins and Schneiderman. Also Senator Connor. Also Senator Serrano.

Ayes, 50. Nays, 8.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1046, by Senator Skelos, Senate Print 434, an act to amend the Correction Law, in relation to requiring.

ACTING PRESIDENT FLANAGAN: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of January.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1048, by Senator Bonacic, Senate Print 479, an act to amend the Correction Law, in relation to requiring.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1049, by Senator Marcellino, Senate Print 615, an act to amend the Criminal Procedure Law, in relation to anonymous juries.

ACTING PRESIDENT FLANAGAN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number

1050, by Senator Flanagan, Senate Print 693, an act to amend the Executive Law, in relation to defendant profiting.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1056, by Senator Skelos, Senate Print 2458A, an act to amend the Correction Law, in relation to notice.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays,

1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1061, by Senator Golden, Senate Print 3718, an act to amend the Executive Law, in relation to crime victims emergency awards.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1063, by Senator Marcellino, Senate Print 5324, an act to amend the Executive Law, in relation to notification.

ACTING PRESIDENT FLANAGAN: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 60th day.

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1064, by Senator Saland, Senate Print 5917A, an act to amend the Correction Law, in relation to sex offender registration.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1067, by Senator Bonacic, Senate Print 490, an act to amend the Alcoholic Beverage Control Law, in relation to Class A-I distiller's

license.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT FLANAGAN: The bill is passed.

THE SECRETARY: Calendar Number 1075, by Senator Little, Senate Print 1138A, an act to amend the Local Finance Law, in relation to advance refunding.

ACTING PRESIDENT FLANAGAN: Read the last section.

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

ACTING PRESIDENT FLANAGAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT FLANAGAN: The

bill is passed.

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

SENATOR SKELOS: Thank you, Mr. President. Is there any further business to come before the Senate at this time?

ACTING PRESIDENT FLANAGAN: No further business.

SENATOR SKELOS: There being none, I move we stand adjourned until Monday, May 19th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT FLANAGAN: On motion, the Senate stands adjourned until Monday, May 19th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:39 a.m., the Senate adjourned.)