NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 29, 2018

3:33 p.m.

REGULAR SESSION

SENATOR ELAINE PHILLIPS, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT PHILLIPS: 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 PHILLIPS: In the absence of clergy, may we please bow our heads in a moment of silence.

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

ACTING PRESIDENT PHILLIPS: That's my favorite part.

The reading of the Journal.

THE SECRETARY: In Senate, January 28th, the Senate met pursuant to adjournment. The Journal of Saturday, January 27th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT PHILLIPS: 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 DeFrancisco.

SENATOR DeFRANCISCO: Madam President, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Bills 5979 and 5722A, both by Senator Larkin.

ACTING PRESIDENT PHILLIPS: So ordered.

SENATOR DeFRANCISCO: Also, I have a bill that I'd like to be discharged from its committee and be recommitted with instructions to strike the enacting clause. That's 5237, by Senator Marcellino.

ACTING PRESIDENT PHILLIPS: So ordered.

SENATOR DeFRANCISCO: I also move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause:

Senate Bill Numbers 5149, 4515, 5354, all by Senator Marchione.

ACTING PRESIDENT PHILLIPS: So ordered.

SENATOR DeFRANCISCO: Next, amendments are offered to the following Third Reading Calendar bills.

By Senator Murphy, page 19, Calendar Number 100, Senate Print 3751.

By Senator Marcellino, page 20, Calendar 112, Senate Print 3479.

By Senator Marchione, page 23, Calendar 149, Senate Bill 194.

By Senator Little, page 26, Calendar 182, Senate Print 1379C.

And I now move that these bills retain their place on the order of third reading.

ACTING PRESIDENT PHILLIPS: The amendments have been received, and the bills will retain their place on the Third Reading Calendar.

SENATOR DeFRANCISCO: And would you please recognize Senator Valesky.

ACTING PRESIDENT PHILLIPS: Senator Valesky.

SENATOR VALESKY: Thank you, Madam

President.

I move that my bill, Senate Bill 3570B, be discharged from its respective committee and recommitted with instructions to strike the enacting clause.

ACTING PRESIDENT PHILLIPS: So ordered.

SENATOR VALESKY: And on behalf of Senator Klein, on page 26, I offer the following amendments to Calendar 184, Senate Bill 1990, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT PHILLIPS: The amendments are received, and the bill retains its place on the Third Reading Calendar.

SENATOR VALESKY: Thank you.

ACTING PRESIDENT PHILLIPS: Thank you.

SENATOR DeFRANCISCO: Would you now recognize Senator Gianaris, please.

ACTING PRESIDENT PHILLIPS: Senator Gianaris.

SENATOR GIANARIS: Madam President, on behalf of Senator Hoylman, I move the following bill be discharged from its committee

and recommitted with instructions to strike the enacting clause: Senate Bill 5447.

ACTING PRESIDENT PHILLIPS: So ordered.

SENATOR DeFRANCISCO: Madam President, would you now take up the reading of the noncontroversial calendar.

ACTING PRESIDENT PHILLIPS: The Secretary will read.

THE SECRETARY: Calendar Number 7, by Senator Golden, Senate Print 7279, an act to amend the Not-for-Profit Corporation Law.

ACTING PRESIDENT PHILLIPS: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as a chapter of the Laws of 2017.

ACTING PRESIDENT PHILLIPS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PHILLIPS: Announce the result.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT PHILLIPS: The bill is passed.

THE SECRETARY: Calendar Number 37, by Senator Alcantara, Senate Print 7309, an act to amend the Economic Development Law.

ACTING PRESIDENT PHILLIPS: Read the last section.

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

ACTING PRESIDENT PHILLIPS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PHILLIPS: Announce the result.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT PHILLIPS: The bill is passed.

THE SECRETARY: Calendar Number 122, by Senator Gallivan, Senate Print 3581, an act to amend the Correction Law.

ACTING PRESIDENT PHILLIPS: Read the last section.

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

ACTING PRESIDENT PHILLIPS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PHILLIPS:

Announce the result.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT PHILLIPS: The bill is passed.

THE SECRETARY: Calendar Number 165, by Senator Funke, Senate Print 1044A, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT PHILLIPS: Read the last section.

THE SECRETARY: Section 2. This act shall take effect April 2, 2019.

ACTING PRESIDENT PHILLIPS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PHILLIPS: Announce the result.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT PHILLIPS: The bill is passed.

THE SECRETARY: Calendar Number 167, by Senator Flanagan, Senate Print 3532, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT PHILLIPS: Read the last section.

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

ACTING PRESIDENT PHILLIPS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PHILLIPS: Announce the result.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT PHILLIPS: The bill is passed.

THE SECRETARY: Calendar Number 177, by Senator Peralta, Senate Print 352, an act to amend the Banking Law.

ACTING PRESIDENT PHILLIPS: Read the last section.

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

ACTING PRESIDENT PHILLIPS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PHILLIPS: Announce the result.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT PHILLIPS: The bill is passed.

THE SECRETARY: Calendar Number 189, by Senator Little, Senate Print 1317, an act to amend the Real Property Law.

ACTING PRESIDENT PHILLIPS: Read the last section.

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

ACTING PRESIDENT PHILLIPS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PHILLIPS: Announce the result.

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT PHILLIPS: The bill is passed.

THE SECRETARY: Calendar Number 190, by Senator Little, Senate Print 1376, an act to amend the General Obligations Law.

ACTING PRESIDENT PHILLIPS: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

ACTING PRESIDENT PHILLIPS: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PHILLIPS: Senator Kavanagh to explain your vote, please.

SENATOR KAVANAGH: Thank you.

I'll be voting against this bill today. This bill -- I commend the sponsor for taking on this issue. This is a very important issue that is our effort to get people using our slopes for winter sports to wear helmets, particularly children.

But this bill is I think partly a response by the industry to a far more comprehensive proposal that we've been working on for a long time. In this case, the bill only puts the obligation on the families and the children themselves to wear helmets, rather than putting some obligations on the ski resorts that are profiting from this activity. It also puts the onus on local law enforcement to ensure that people are wearing helmets on ski slopes, which seems like an odd role for local law enforcement, given their lack of access to the slopes because they're private property.

And moreover, the bill only

addresses children 14 and under, whereas it's widely recognized that people certainly older than that ought to be wearing helmets, and it might do a disservice to families of, you know, 15-year-olds and 16-year-olds and 17-year-olds by suggesting to them that it's okay for older teenagers not to be wearing helmets.

And finally, the bill addresses skiers but not snowboard users.

So for all these reasons, I think the bill, although I'm sure it's well-intended, does not address the problem and may displace the far more comprehensive legislation we ought to be doing. So I'll be voting no.

ACTING PRESIDENT PHILLIPS: Senator Kavanagh to be recorded in the negative.

Senator Little to explain your vote.

SENATOR LITTLE: Thank you, Madam President.

I'd like to thank my colleagues for supporting the bill, those who are.

And the reason for the 14 years old is that we modeled this bill after the very successful bicycle helmet bill.

The ski areas are in support of this

bill. They're going to promote helmets all the way around. They will supply helmets for rent and all of that. It's on their ticket. And I think that any of you who go skiing will see that most people are wearing helmets, adults and whatever.

But it is a choice. And for 14-year-olds, we believe it should be -- anyone under the age of 14, it should be mandatory.

So I thank you all, and I vote aye.

ACTING PRESIDENT PHILLIPS: Senator Little recorded in the affirmative.

Announce the result.

THE SECRETARY: Ayes, 48. Nays, 1. Senator Kavanagh recorded in the negative.

ACTING PRESIDENT PHILLIPS: The bill is passed.

THE SECRETARY: Calendar Number 212, by Senator Ritchie, Senate Print 6839, an act to amend the Highway Law.

ACTING PRESIDENT PHILLIPS: Read the last section.

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

ACTING PRESIDENT PHILLIPS: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PHILLIPS: Announce the result.

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT PHILLIPS: The bill is passed.

THE SECRETARY: Calendar Number 215, by Senator Murphy, Senate Print 7004, an act to amend the Highway Law.

ACTING PRESIDENT PHILLIPS: Read the last section.

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

ACTING PRESIDENT PHILLIPS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PHILLIPS: Senator Murphy to explain his vote.

SENATOR MURPHY: Thank you, Madam President.

I rise to salute the 1.8 million men and women of our armed forces who are the recipients of the Purple Heart.

America's oldest military

decoration, the Purple Heart is awarded only to those who have been killed or wounded by enemy action:

Men and women like Army First Lieutenant Victor Prato, of Somers, who was injured by a car bomb while deployed in Afghanistan just this past December;

Men and women like Air National Guardsman Joseph Lemm, a 15-year veteran of the New York Police Department, who was tragically killed alongside Air Force Major Adrianna Vorderbruggen, the first openly gay female officer killed in combat;

Vietnam- and Korea-era veterans like Willie Nazario, Eugene Lang, Neil Gross, and Dale Novak of the amazing Military Order of the Purple Heart of York, and those from our greatest generation who have left us, like Staff Sergeant Ray Kilduff, of Patterson, who served alongside "Old Blood and Guts," General Patton, in North Africa;

The men and women who have walked the hallowed halls of the United States Military Academy at West Point, served at Fort Drum and the Brooklyn Naval Yard;

And men and women like William Brown, Elijah Churchill, and Daniel Bissel, who were each presented with the Purple Heart, then known as the Badge of Military Merit, by General George Washington himself.

The people of the County of Westchester have great admiration and the utmost gratitude for all the men and women who have selflessly served their country, and most especially those who have paid the high price for freedom by leaving their families, their communities, and placing themselves in harm's way, some never ever to return again.

I would just like to thank my colleagues for their support of this bill and, Madam President, I will be voting in the affirmative. Thank you.

ACTING PRESIDENT PHILLIPS: Thank you, Senator Murphy.

Announce the result.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT PHILLIPS: The bill is passed.

That completes the noncontroversial reading of the calendar.

SENATOR DeFRANCISCO: Madam President, is there any further business at the desk?

ACTING PRESIDENT PHILLIPS: There is no further business at the desk.

SENATOR DeFRANCISCO: I just want to compliment you on presiding over the most efficient session of this year so far.

ACTING PRESIDENT PHILLIPS: The quickest.

SENATOR DeFRANCISCO: And with that said, I move to adjourn until Tuesday, January 30th, at 11:00 a.m.

ACTING PRESIDENT PHILLIPS: On motion, the Senate stands adjourned until Tuesday, January 30th, at 11:00 a.m.

Thank you, everyone.

(Whereupon, at 3:46 p.m., the Senate adjourned.)