THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 7, 2000

4:04 p.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 come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

THE PRESIDENT: With us today to give our invocation is the Reverend Peter G. Young, from Blessed Sacrament Church in Bolton Landing.

REVEREND YOUNG: Dear God, we ask Your presence on the blessing of this Senate chamber and all of their representatives.

We have come to express our concern about the welfare of our community, to learn from each other, to grow in spirit and character, to find Your will for our lives and our neighborhoods.

We thank You for the opportunity in this country to gather in this Senate chamber to share in the memory and the opportunity of working as a togetherness group for the State of New York. Amen.

THE PRESIDENT: Thank you, Reverend Young.

Reading of the Journal.

THE SECRETARY: In Senate, Saturday, February 5, the Senate met pursuant to adjournment. The Journal of Friday, February 4, 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.

The Secretary will read.

THE SECRETARY: Senator Spano, from the Committee on Labor, reports:

Senate Print 1992B, by Senator Volker, an act to amend the Labor Law;

And 3514B, by Senator Spano, an act to amend the Labor Law and the Urban Development Corporation Act.

Senator Morahan, from the Committee on Veterans and Military Affairs, reports:

Senate Print 1908C, by Senator Meier, an act to amend the Real Property Tax Law;

4502, by Senator Libous, an act to amend the Executive Law;

And 4752A, by Senator Maltese, an act to amend the Vehicle and Traffic Law.

Senator Marchi, from the Committee on Corporations, Authorities and Commissions reports:

Senate Print 1023A, by Senator Skelos, an act to establish a Business Trust Law;

1808, by Senator Padavan, an act to amend the Public Authorities Law;

3908B, by Senator Bonacic, an act to amend the Public Authorities Law;

And 6281, by Senator Larkin, an act to amend the Public Authorities Law.

Senator Seward, from the Committee on Insurance, reports:

Senate Print 858, by Senator Balboni, an act to amend the Insurance Law;

3529, by Senator Saland, an act to amend the Insurance Law;

And 5752, by the Senate Committee on Rules, an act to amend the Insurance Law.

Senator Bonacic, from the Committee on Housing, Construction and Community Development, reports:

Senate Print 2866, by Senator Volker, an act to amend the General Business Law;

3664, by Senator Bonacic, an act to amend the Private Housing Finance Law;

3891, by Senator Bonacic, an act to amend the Private Housing Finance Law;

4139, by Senator Bonacic, an act to amend the Public Housing Law;

4438, by Senator Bonacic, an act to amend the Private Housing Finance Law;

4858, by Senator Bonacic, an act to amend the Executive Law;

And 5198, by Senator Bonacic, an act to amend the Administrative Code of the City of New York.

Senator Trunzo, from the Committee on Transportation, reports:

Senate Print 2788A, by Senator Johnson, an act to amend the Vehicle and

Traffic Law;

2994A, by Senator Trunzo, an act to amend the Vehicle and Traffic Law and the Public Authorities Law;

And 3244, by Senator Kuhl, an act to amend the Vehicle and Traffic Law.

All bills ordered direct to third reading.

THE PRESIDENT: Without objection, all bills reported direct to third reading.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Point of order. Senate 3131B, is that on the list that we're reporting?

THE PRESIDENT: Senator, that has not been reported out.

SENATOR PATERSON: Thanks very much, Madam President.

THE PRESIDENT: You're welcome.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Yes, thank you, Madam President.

On behalf of Senator Marcellino, Madam President, on page 8 I offer the following amendments to Calendar Number 78, Senate Print 1323, and I ask that that bill retain its place.

On behalf of Senator Wright, Madam President, on page 12 I offer the following amendments to Calendar Number 124, Senate Print 4501A, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: On behalf of Senator Nozzolio, Madam President, on page 13 I offer the following amendments to Calendar 135, Senate Print 4464, and I ask that that bill retain its place.

On behalf of Senator Volker, Madam President, on page 17 I offer the following amendments to Calendar Number 177, Senate

Print Number 4252, and I ask that that bill retain its place on the Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a privileged resolution at the desk by Senator Breslin. May we please have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Breslin, Legislative Resolution Number 3013, commending Paul M. Bray for his many years of distinguished service with the Legislative Bill Drafting Commission, upon the occasion of his retirement as Senior Counsel.

THE PRESIDENT: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up the noncontroversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 85, by Senator Seward, Senate Print 5207, an act to amend the County Law.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 90, by Senator McGee, Senate Print 6276, an act to amend the Education Law, in relation to the dates during which a public hearing may be held.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 106, by Senator Meier, Senate Print 4866A, an act to amend the Town Law, in relation to increasing the amount.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2001.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 116, by Senator Wright, Senate Print 2421, an act to amend the Public Service Law, in relation to annual reports.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 137, by Senator Trunzo, Senate Print 5016A -

SENATOR ONORATO: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 141, by Senator LaValle, Senate Print 807, an act to amend the Education Law, in relation to community service.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 148, by Senator Marcellino, Senate Print 4151, an act to repeal Title 17 of Article 23 of 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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 165, by Senator Volker, Senate Print 111A, an act to amend the Criminal Procedure Law, in relation to criminal actions terminated in favor of the accused.

THE PRESIDENT: Read the last section.

SENATOR MONTGOMERY: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 166, by Senator DeFrancisco, Senate Print 537, an act to amend the Criminal Procedure Law, in relation to access to sealed records.

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, 56. Nays, 2. Senators Duane and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 186, by Senator Bonacic, Senate Print 6285, an act authorizing the Delaware Valley Jeffersonville-Youngsville Narrowsburg Central School District.

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: Ayes, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 197, by Senator Hannon -

SENATOR PATERSON: Lay it aside.

THE SECRETARY: -- Senate Print 1524, an act to amend the Public Health Law, in relation to reimbursement of city or county medical expenses.

THE PRESIDENT: The bill is laid aside.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, if that completes the reading of the noncontroversial calendar, can we move to the reading of the controversial calendar.

THE PRESIDENT: Thank you, Senator. Upon the completion of the reading of the noncontroversial calendar, we will now have the reading of the controversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number

137, by Senator Trunzo, Senate Print 5016A, an act authorizing the Department of Transportation to conduct a feasibility study.

SENATOR HEVESI: Explanation.

THE PRESIDENT: Senator Trunzo, an explanation has been requested.

SENATOR TRUNZO: Madam President, the purpose of this bill is to authorize the Department of Transportation to conduct a feasibility study of water passenger transportation from Manhattan Island to Kennedy Airport and LaGuardia Airports, identifying the various points of embarkment and debarkment and conducting a cost-benefit analysis in considering various types of water craft.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: Madam President, I believe there's an amendment at the desk. I ask that its reading be waived, and I wish to be heard on the amendment.

THE PRESIDENT: Go ahead, Senator. The reading is waived.

SENATOR HEVESI: Thank you.

Madam President, I think Senator

Trunzo's legislation is a good piece of legislation. It passed this house unanimously last year.

One of the central benefits of the feasibility study that he is proposing become law is that we can reduce the volume of traffic congestion in the city of New York by having an alternate route to LaGuardia and Kennedy Airports. Very admirable goal.

One of the tangential benefits of that will be reduced air-pollution emissions. And we have a tremendous problem in the city of New York, most notably in my home borough of Queens, with air and noise pollution emanating from the two airports that are the target of Senator Trunzo's legislation.

So essentially the amendment that is before us is the adoption or would be the adoption in its entirety of a bill that Senator Maltese has introduced, which has cosponsorship by myself and several other members of this body, which has passed the Assembly in 1998 and 1999.

And similar to Senator Trunzo's legislation, this amendment, Senator Maltese's

bill, would require the State Department of Environmental Conservation to conduct a feasibility study using the "bubble" methodology that has been adopted and implemented in California, whereby any potential emission-pollution-producing entity within either one of the airports would be studied and examined, including any aircraft, fixed-wing or otherwise, any refuelling vehicle, any baggage-transporting vehicle - and, in addition, taxis, limousines, and buses.

In the aggregate, all of these entities would essentially be targeted under this study as one entity. And after the DEC does its feasibility study, recommendations would be made to reduce those emission levels in a comprehensive fashion, treating the area around each of these airports as a bubble. Everything within them reduces the emissions.

And this is something that we absolutely need to move in the direction of. We have in Queens, in Brooklyn, and most notably and most acutely in the Bronx, respiratory difficulties, particularly with

young individuals, the elderly, and those who have a predisposition to respiratory illnesses, asthma and what have you. We have a tremendous problem here.

And Assemblyman Klein recently put out a study that shows that we have something which he dubbed "Asthma Alley" in the Bronx, where the incidence of this ailment is much higher than averages which are acceptable, to the extent that any acceptance of asthma is acceptable.

And I believe, as I know many of my colleagues and Senator Maltese believes, that one of the exacerbating factors in the asthma, in the respiratory problems, are the emissions at these airports.

And to the extent that my constituents and the constituents of Senator Onorato and Senator Stavisky and Senators Maltese and Padavan and all the other senators in the contiguous area around Kennedy and around LaGuardia Airports have a stake in the health of their constituents, I think passage of what is essentially Senator Maltese's "bubble bill" as an amendment to the

legislation that Senator Trunzo has put before us is absolutely essential.

It's bipartisan. This is protecting the health of our constituents. It is a cost-effective measure. DEC could implement this utilizing existing staff. The Assembly has passed it. It's got a Republican sponsor. It's a common-sense measure.

And I applaud Senator Maltese for his advocacy on this issue. And I know that this is an issue that Senator Marcellino is interested in, and I know he's taken a look at it.

And in the highly unlikely event that this amendment should fail when we take a vote on it in a few moments, I would strongly suggest to all of my colleagues that they support passage of the "bubble bill," have it reported out of the Environmental Conservation Committee.

This is something where we have a problem, we know what the problem is, we know of potential remedies, and we certainly can all agree that the search for potential remedies is of the highest priority.

So I want to again commend Senator Maltese and Senator Marcellino for their interest in this area and urge all of my colleagues to support this amendment, which will protect the lives and the health of constituents of all the Senators in New York City and on Long Island. And I say that in particular because I don't believe we have a Democratic Senator from Long Island. The Long Island members have to protect their constituents as well. They're affected by this legislation, or actually the lack thereof.

So, Madam President, in conclusion, I just would like to request again, everybody support this amendment and keep up the fight. We will have some more environmental protection so that our constituents can breathe clean air, as they deserve to.

THE PRESIDENT: On the amendment, all in favor signify by saying aye.

(Response of "Aye.")

SENATOR MARCELLINO: Party vote in the negative.

THE PRESIDENT: Opposed, nay.

SENATOR MARCELLINO: Party vote in the negative.

THE PRESIDENT: The Secretary will call the roll on a party vote.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 36. Party vote.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, we didn't make a party vote.

THE PRESIDENT: Then we'll -- the Secretary will withdraw the roll call. It was difficulty hearing -- the amendment is defeated.

SENATOR MARCELLINO: Read the last section, Madam President.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 165, by Senator Volker, Senate Print 111A, an act to amend the Criminal Procedure Law, in relation to -

SENATOR MARCELLINO: Lay it aside for the day, please, at the request of the sponsor.

THE PRESIDENT: The bill is laid aside, Senator.

THE SECRETARY: Calendar Number 197, by Senator Hannon, Senate Print 1524 -

SENATOR MARCELLINO: Lay it aside for the day at the request of the sponsor, please.

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

SENATOR MARCELLINO: Madam President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Is there any housekeeping at the desk? I believe you have a privileged resolution or a resolution.

THE PRESIDENT: Return to motions and resolutions.

The Secretary will read.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, on page 14 I offer the following amendments to Calendar Number 151, Senate Print Number 6137, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Marcellino.

SENATOR MARCELLINO: If we can have just one moment, Madam President.

Madam President.

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: Is there any further housekeeping at the desk?

THE PRESIDENT: No, Senator.

SENATOR MARCELLINO: On that point, may we adjourn this session until tomorrow at 11:00 a.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Tuesday,

February 8th, 11:00 a.m.

(Whereupon, at 4:25 p.m., the Senate adjourned.)