NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 5, 2003

11:41 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: Will the Senate 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, please, in a moment of silence.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 4, the Senate met pursuant to adjournment. The Journal of Monday, March 3, 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 Little, from the Committee on Local Government, reports the following bills:

Senate Print 63, by Senator Volker, an act to amend the General Municipal Law;

529, by Senator Johnson, an act to amend Chapter 250 of the Laws of 1999;

537, by Senator Johnson, an act to authorize;

803, by Senator Marcellino, an act to amend the Real Property Tax Law;

And Senate Print 916, by Senator LaValle, an act to amend the General Municipal Law.

All bills ordered direct to third reading.

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

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Alesi, on page number 4 I offer the following amendments to Calendar Number 4, Senate Print Number 46, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Madam President, are there any substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

SENATOR SKELOS: I ask that they be made at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 13, Senator Padavan moves to discharge, from the Committee on Education, Assembly Bill Number 3517 and substitute it for the identical

Senate Bill Number 1602, Third Reading Calendar 161.

THE PRESIDENT: The substitution is ordered.

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: There's a privileged resolution at the desk, 618, by Senator DeFrancisco. I ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislation Resolution Number 618, honoring Mary Lessaongang upon the occasion of her 30 years of service to the Town of Van Buren.

THE PRESIDENT: The question is on the resolution. All in favor please 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 go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 68, by Senator Alesi, Senate Print 129, an act to amend the Vehicle and Traffic Law and the State Finance Law, in relation to creating.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. 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 91, by Member of the Assembly Weinstein, Assembly Print Number 1409, an act to amend the New York City Civil Court Act and the Civil Practice Law and Rules, in relation to annual fees.

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 101, by Senator Skelos --

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 102, by Senator Morahan, Senate Print 1034, an act to amend the Penal Law and the Criminal Procedure Law, in relation to fixing sentences.

THE PRESIDENT: Read the last section.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid

aside.

THE SECRETARY: Calendar Number 104, by Senator Volker, Senate Print 1109, an act to amend the Criminal Procedure Law, in relation to appeals from certain orders of suppression.

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 161, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 3517, an act to repeal Section 3 of Chapter 6 of the Laws of 2003.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

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

SENATOR SKELOS: Madam President, if we could go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 102, by Senator Morahan, Senate Print 1034, an act to amend the Penal Law and the Criminal Procedure Law, in relation to fixing sentences.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Morahan, an explanation has been requested of Calendar Number 102.

SENATOR MORAHAN: Basically, this would amend the Penal Law to those people who are out on parole, who enjoy the freedom of movement as opposed to being in prison, commit a felony while on parole. Then they would have to return to prison, serve out the maximum time on that felony and a minimum for the new crime that they committed while they

were on parole.

ACTING PRESIDENT MARCELLINO: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President, very briefly on the bill.

ACTING PRESIDENT MARCELLINO: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I guess what I have to say is happy anniversary. This is the tenth anniversary of this bill. And ten years ago, New York had a different governor, comptroller, attorney general, different Senate majority leader, different Assembly speaker, different minority leaders in both houses.

I support this legislation, but it's pretty clear to me that we're not getting very far. And I think this just points up the need for more of a comprehensive revision of New York's sentencing laws.

And once again, I would urge that this ritual we go through every year of us passing our one-house bills and the Assembly passing their one-house bills is getting a little bit tired. I hope we can do something

about sentencing, deal with the issues raised in yesterday's debate on the Rockefeller Drug Laws and the other laws which Senator Volker knows are wrongfully referred to as Rockefeller Drug Laws.

Ten years is an awfully long time to wait on something this basic. I hope we can take a new approach and try and convene a conference committee or something else to break the gridlock on this critical issue.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Any other Senators wishing to be heard on this bill?

Debate is closed.

Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the first day of November.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52 --

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Those recorded in the negative are Senators Dilán, Duane, Hassell-Thompson, and Parker. Ayes, 49. Nays, 4.

ACTING PRESIDENT MARCELLINO: The bill is still passed.

THE SECRETARY: Calendar Number 161, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 3517, an act to repeal Section 3 of Chapter 6 of the Laws of 2003.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MARCELLINO: Senator Padavan, an explanation has been requested.

SENATOR PADAVAN: You may recall previously we had to pass a bill that would extend the election of the community school boards because we are in the process, as those from the City of New York are well aware, of determining what should be done with the community school boards vis-a-vis their replacement by parent councils.

The task force we created last year

came in with its recommendations, which we're all reviewing and generally, I think, find very positive.

If we did not extend the school board elections on March -- last month, the Board of Elections would have had to start a process of petitioning, costing millions of dollars, which was certainly unnecessary.

Now, when we passed that bill, we made a mistake. We included something that we did not want to include. And that was covered by Section 3 of that bill, which became law, the Governor having signed it.

And so in order to deal with the error, we have this chapter amendment in front of us today which deletes Section 3, which should not have been in that bill in the first place.

ACTING PRESIDENT MARCELLINO: Senator Lachman.

SENATOR LACHMAN: Yes, through you, Mr. President.

I support this bill --

ACTING PRESIDENT MARCELLINO: Are you speaking on the bill, Senator?

SENATOR LACHMAN: Yes, I'm speaking on the bill.

ACTING PRESIDENT MARCELLINO: Senator Lachman, on the bill.

SENATOR LACHMAN: I support this bill that's before us today because there is no reason for the city to prepare for an election that is never going to take place.

Now, parental involvement is essential to any new community school board structure. I agree with Senator Padavan that last year we did not take sufficient notice of the complete bill.

I have to, at the same time, commend Assemblyman Sanders, Terry Thompson, and also Senator Padavan for developing a preliminary response to the issue of parental involvement.

However, as I had mentioned to the chancellor at the Finance Committee meeting, this is just a preliminary response. It's a good preliminary response. But in my opinion, it does not go far enough in terms of parental involvement on the local level in the New York City Board of Education.

So I am going to support this bill, but I assume there will be further discussion of this measure when it comes up for a final vote dealing with parental involvement on the local level.

Thank you.

ACTING PRESIDENT MARCELLINO: Any other Senator wishing to be heard?

Debate is closed.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as Chapter 6 of the Laws of 2003.

ACTING PRESIDENT MARCELLINO: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos, that completes the controversial calendar.

SENATOR SKELOS: Mr. President, is there any housekeeping at the desk?

ACTING PRESIDENT MARCELLINO: No, the house is clean, Senator.

SENATOR SKELOS: There being no further business, I move we adjourn until Monday, March 10th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MARCELLINO: On motion, the Senate stands adjourned until Monday, March 10th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:56 a.m., the Senate adjourned.)