NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 11, 2003

3:08 p.m.

REGULAR SESSION

SENATOR MICHAEL A.L. BALBONI, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT BALBONI: The Senate will 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.)

ACTING PRESIDENT BALBONI: The invocation today will be given by His Eminence, Edward Cardinal Egan, Archbishop of the Roman Catholic Archdiocese of New York.

ARCHBISHOP EGAN: Thank you, Senator Balboni. And thank you, Senator Bruno. And thank all of you for allowing me to come here and have the honor of praying with you.

It's always a great pleasure to come to New York and its Capitol on this occasion at least once a year. And I want you to know I consider this a privilege. I thank you very much for your kindness.

Could I ask you to join me now in bowing our heads in prayer.

Almighty and Eternal Father, we

place ourselves in Your presence to ask Your blessing.

Our prayer today is for the citizens of our state. May they be a people of courage and commitment, commitment to Your holy will. May they care for the needy. May they seek harmony among all races, creeds, and ethnic backgrounds. May they rejoice in the peace of soul that comes from lives of goodness and compassion.

Our prayer today is also for our legislators, for our Governor and for his administration. May they guide the citizenry of this state in the path of justice and righteousness. May their decisions be inspired by charity and understanding for those in our midst who are suffering economically, emotionally, even spiritually. May they, by their decisions and their lives, be an inspiration to all of our people, especially our children, our youth.

Our prayer is for our nation in a time of crisis. May our President, our Congress, and all who guide and rule us make justice, compassion, the purpose and guide of

all they do.

May they seek the path of peace whenever it may be justly sought, and in so doing may they allow this strong and noble republic of ours to continue to be a light to nations, a city set upon a hill.

Our prayer today, O Lord, is a prayer of trust in Your divine providence. Give us the courage and the wisdom to be a people worthy of You.

We are Yours, Lord. This is what we wish to be. With fervor, devotion, and confidence, we commit ourselves to living as You would have us live. And we beg You, O Lord, to care for those who guide, who lead, who govern us. Make them women and men of justice and charity, of strength and goodness, now and forever.

Amen.

ACTING PRESIDENT BALBONI: Thank you, Your Eminence. You honor us by your presence.

Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 10, the Senate met pursuant to

adjournment. The Journal of Saturday, March 8, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Senator Farley, why do you rise?

SENATOR FARLEY: Thank you, Mr. President.

It is with a great pleasure that I wish to introduce four visiting bishops that are with us in the gallery. And we're honored to have His Eminence, Cardinal Egan, with us here today.

But I'd first like to introduce my own bishop, Howard Hubbard, Bishop of Albany, who's with us. Bishop Henry Mansell, the Bishop of Buffalo, who is with us. And also Bishop James Moynihan, Bishop of Syracuse. And Bishop Dominick Lagonegro, Auxiliary Bishop of New York.

Welcome, and we're delighted to have you with us.

ACTING PRESIDENT BALBONI: The Secretary will read the report from the Finance Committee.

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

As a member of the Adirondack Park Agency, Cecil Wray, Esquire, of New York City.

As a member of the Central New York State Park, Recreation and Historic Preservation Commission, Joan W. Compson, of Clinton.

As a member of the Lake George Park Commission, John C. McDonald, Jr., of Ticonderoga.

As commissioners of the State Insurance Fund, Robert H. Hurlbut, of Honeoye Falls; and Charles L. Lodice, of Woodbury.

As a member of the Continuing Care Retirement Community Council, Paul Rosenfeld, of Staten Island.

As a member of the State Hospital Review and Planning Council, Robert W.

Hurlbut, of Rochester.

And as Major General of the New York Army National Guard, Joseph J. Taluto, of Fort Ann.

ACTING PRESIDENT BALBONI: The question is on the confirmation of the nominees as read by the Secretary.

All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BALBONI: Oppo sed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The nominees are hereby confirmed.

The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following bill direct to third reading:

Senate Print 2231, by the Senate Committee on Rules, an act to amend the Public Authorities Law.

ACTING PRESIDENT BALBONI: Witho ut objection, the bill is reported to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, I move that we accept the Resolution Calendar in its entirety, with the exception of Resolution 623.

ACTING PRESIDENT BALBONI: The motion is in regard to the acceptance of the Resolution Calendar in its entirety, with the exception of that resolution noted by Senator Skelos.

All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BALBONI: All opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The Resolution Calendar is hereby adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could have the title read on Resolution

Number 623 and move for its immediate adoption.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 623, memorializing Governor George E. Pataki to proclaim the month of April 2003 as Autism Awareness Month in the State of New York.

ACTING PRESIDENT BALBONI: Senat or Skelos.

SENATOR SKELOS: Move the resolution.

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

(Response of "Aye.")

ACTING PRESIDENT BALBONI: All opposed, nay.

(No response.)

ACTING PRESIDENT BALBONI: The resolution is adopted.

SENATOR SKELOS: Mr. President, Senator Larkin has indicated that he'd like to open up the resolution for cosponsorship.

With the consent of the Minority, we'll put everybody on the resolution. If they care not to sponsor the resolution, they should notify the desk.

ACTING PRESIDENT BALBONI: The resolution is open for cosponsorship. If you do not wish to be a cosponsor, please notify the desk.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Corporations, Authorities and Commissions Committee in the Majority Conference Room.

ACTING PRESIDENT BALBONI: There will be an immediate meeting of the Corporations, Authorities and Commissions Committee in the Majority Conference Room.

Senator Skelos.

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

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Calendar Number 16, by Senator Volker, Senate Print 243, an

act to amend the Criminal Procedure Law, in relation to expanding the number of a victim's family members.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 96, by Senator Hoffmann, Senate Print 188, an act to amend the Agriculture and Markets Law, in relation to defining dangerous dogs.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 136, by Senator Marcellino, Senate Print 801, an act to amend the Vehicle and Traffic Law, in relation to increasing the parameters.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 139, by Senator Skelos, Senate Print 551, an act to amend the General Business Law, in relation to the sale of laser pointing devices.

ACTING PRESIDENT BALBONI: Read the last section.

THE SECRETARY: Section 5. This

act shall take effect on the first day of September.

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 147, by Senator Maziarz, Senate Print 264A, an act to amend the Highway Law, in relation to the designation of the "General Casimir Pulaski Highway."

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 153, by Senator Kuhl, Senate Print 1247, an

act to amend the Highway Law, in relation to the temporary discontinuance.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 174, by Senator LaValle, Senate Print 916, an act to amend the General Municipal Law, in relation to allowing for the use of fire training centers.

ACTING PRESIDENT BALBONI: Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT BALBONI: The bill is passed.

THE SECRETARY: Calendar Number 177, by Senator Spano, Senate Print 2850, an act to amend the Tax Law, in relation to enacting the Simplified Sales and Use Tax Administration Act.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT BALBONI: Lay that bill aside.

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

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

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Calendar Number 177, by Senator Spano, Senate Print 2850, an act to amend the Tax Law, in relation to enacting the Simplified Sales and Use Tax Administration Act.

SENATOR SCHNEIDERMAN: Explanati on.

ACTING PRESIDENT BALBONI: Senator Spano, an explanation has been requested of your bill.

SENATOR SPANO: Mr. President, currently, 36 states in the nation have entered into a compact to take a look at streamlining the sales tax. It's called SSTP, the Streamlined Sales Tax Project.

A recent University of Tennessee study showed that we are currently losing, this year alone, some $1 billion of uncollected tax revenue as a result of the Internet and uncollected sales through e-commerce.

What this bill would simply do is allow New York State to be at the table for the discussions relative to the simplification of the sales tax collections across this nation, and to work with other states like Massachusetts, which recently just passed a bill very similar to this.

This bill does not bind the State of New York to anything, but gives us a seat at the table so that our voices would be heard.

ACTING PRESIDENT BALBONI: Senat or Paterson.

SENATOR PATERSON: Actually, Mr. President, I'm in support of this bill.

I asked for the explanation because at a time when we are losing a projected billion dollars a year, perhaps to a billion and a half dollars a year, because of these sales for which we as a state cannot receive any taxes, if we can go into a consortium with 35 other states, it would be an immense opportunity for us to try to retrieve some of those resources.

And we commend Senator Spano for his effort.

ACTING PRESIDENT BALBONI: Thank you, Senator Paterson.

Read the last section.

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

ACTING PRESIDENT BALBONI: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT BALBONI: The

bill is passed.

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

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

ACTING PRESIDENT BALBONI: I'm informed that there is not, Senator.

SENATOR SKELOS: There being no further business, I move we stand adjourned until Wednesday, March 12th, at 11:00 a.m.

ACTING PRESIDENT BALBONI: On motion, the Senate stands adjourned until Wednesday, March 12th, at 11:00 a.m.

(Whereupon, at 3:24 p.m., the Senate adjourned.)