NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 9, 2003

11:08 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: 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.)

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

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 8, the Senate met pursuant to adjournment. The Journal of Monday, April 7, 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.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Saland, on page 21 I offer the following amendments to Calendar 309, Senate Print 1913, and I ask that that bill retain its place on the Third Reading Calendar.

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

Senator Golden.

SENATOR GOLDEN: Also on behalf of Senator Saland, on page number 26 I offer the following amendments to Calendar 369, Senate Print Number 1924, and I ask that that bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments

are received, Senator, and the bill will retain its place on the Third Reading Calendar.

SENATOR GOLDEN: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, I have two privileged resolutions at the desk. I ask that the titles be read and move for their immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Skelos, Legislative Resolution Number 1142, honoring Carl DeCicco upon the occasion of his designation as recipient of the Ruth Fins Memorial Award by the Rockville Centre Education Foundation.

And by Senator Skelos, Legislative Resolution Number 1143, honoring Andrea Patterson upon the occasion of her designation as recipient of the Ruth Fins Memorial Award by the Rockville Centre Education Foundation.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolutions are adopted.

Senator Skelos.

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

THE PRESIDENT: Yes, there are, Senator.

SENATOR SKELOS: If we could accomplish them at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 5, Senator Balboni moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 148 and substitute it for the identical Senate Bill Number 848, First Report Calendar 427.

On page 6, Senator Hoffmann moves to discharge, from the Committee on Local Government, Assembly Bill Number 894 and substitute it for the identical Senate Bill Number 183, First Report Calendar 432.

And on page 27, Senator McGee moves to discharge, from the Committee on Codes, Assembly Bill Number 7482 and substitute it for the identical Senate Bill Number 3230A, Third Reading Calendar 379.

THE PRESIDENT: The substitutions are ordered.

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 39, by Senator Balboni, Senate Print 512A, an act to amend the Penal Law, in relation to increasing the criminal penalties.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 230, by Senator Velella, Senate Print 2675, an act to amend the Labor Law and others, in relation to including certain sports equipment.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect September 1.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 267, by Senator Golden, Senate Print 1504, an act to amend the Penal Law, in relation to increasing the penalties for sale of controlled substances.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 319, by Senator Farley, Senate Print 1343, an act to amend Chapter 729 of the Laws of 1994 relating to affecting the health insurance benefits and contributions.

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, 39.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 320, by Senator Robach, Senate Print 2314, an act to amend Chapter 695 of the Laws of 1994 amending the Civil Service 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, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 321, by Senator Robach, Senate Print 2315, an act to amend Chapter 677 of the Laws of 1977 amending the Civil Service Law and others.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 322, by Member of the Assembly Abbate, Assembly Print Number 4971, an act to amend the Civil Service Law, in relation to extending.

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, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

323, by Senator Robach, Senate Print 2318, an act to amend the Retirement and Social Security Law, in relation to the membership.

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, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 324, by Senator Robach, Senate Print 2319, an act to amend Retirement and Social Security Law, in relation to the extension.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 375, by Senator Flanagan, Senate Print 2809, an act to amend the Penal Law, in relation to the commission of persistent sexual abuse.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

THE PRESIDENT: To explain your vote, Senator?

SENATOR DUANE: Yes.

I am going to vote yes for this bill, but I really think we need to take up the issue of reforming the Sexual Assault Reform Act and not do these changes in piecemeal fashion.

And, you know, I know that changes need to be made, but this is just not the right way for us to be doing it. But I'm

going to vote yes anyway. Let it never be said that I'd be voting no on a bill like this.

I voted without rec in committee and said the reason was because I thought we should do this in a comprehensive fashion.

THE PRESIDENT: Hearing no objection, Senator Duane, you will be recorded as voting in the affirmative on this bill.

The Secretary will announce the results.

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 376, by Senator Flanagan, Senate Print 2810, an act to amend the Penal Law, in relation to the commission of aggravated sexual abuse.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Yes, Madam President.

I'm going vote yes on this again, but I'd like my comments on the last bill to go for this one as well.

THE PRESIDENT: You will be recorded as voting in the affirmative on this bill, Senator.

The Secretary will announce the results.

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Thank you, Madam President. If we could go to the controversial reading.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 267, by Senator Golden, Senate Print 1504, an act to amend the Penal Law, in relation to

increasing the penalties.

SENATOR SCHNEIDERMAN: Explanation.

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

SENATOR GOLDEN: Yes, Madam President.

This bill includes parks and playgrounds in the law which is popularly known as the "Drugs in School Law," which was originally sponsored, negotiated, and passed by my predecessor Senator Chris Mega. And the amendments to the law that were sponsored, negotiated, and passed by Senator DiCarlo have let drug dealers know that they will suffer increased penalties if they sell drugs near our schools.

Then my colleague Senator Volker expanded that law to cover areas around daycare centers and educational facilities. The law provides increased penalties for the sale of certain drugs within 1,000 feet of a school.

This bill would increase the penalties for the sale of certain drugs on

park grounds and playgrounds. It is intended to protect our children and to keep our leisure areas free from drugs and the crimes that surround drug sales.

This is a bill that protects our children and provides a place where families and neighbors can meet, have fun, without fear or unwanted disturbances.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, if the sponsor would yield for a question.

THE PRESIDENT: Senator Golden, will you yield for a question?

SENATOR GOLDEN: I do.

THE PRESIDENT: You may proceed, Senator.

SENATOR SCHNEIDERMAN: Just to clarify, the 1,000-foot rule does not extend a thousand feet beyond the perimeter of a park or playground under this provision, does it, it still extends only beyond the actual boundary of the school?

SENATOR GOLDEN: That's correct.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

THE PRESIDENT: Does any other member wish to be heard?

Senator Brown.

SENATOR BROWN: Thank you, Madam President. Through you, if the sponsor would yield for a question.

THE PRESIDENT: Senator Golden, will you yield?

SENATOR GOLDEN: I do.

THE PRESIDENT: You may proceed, Senator.

SENATOR BROWN: Does this also include community centers that might be connected to or in close proximity to a playground?

SENATOR GOLDEN: Yes, it does.

SENATOR BROWN: On the bill, Madam President.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR BROWN: I would just like to take a moment just to commend Senator Golden for this piece of legislation. I

agree, this is an important piece of legislation that will safeguard children all across the State of New York.

I think to expand the protections of existing law beyond school grounds to parks, to playgrounds, to community centers adds an additional measure of protection for our children, not only in New York City but of course throughout the entire State of New York.

And I applaud Senator Golden for his vision and for sponsoring this important piece of legislation.

THE PRESIDENT: Does any other member wish to be heard?

Then the debate is closed.

Read the last section.

THE SECRETARY: Section 4. This act shall take effect on on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: Senator Parker.

SENATOR PARKER: Yes, Madam President. I'd like to explain my vote.

THE PRESIDENT: Please proceed.

SENATOR PARKER: While I agree with Senator Golden and Senator Volker and of course my colleague Byron Brown that it's important to protect our children, especially in the playgrounds and community centers and schools, at a time that we are right now fighting to turn back the ill effects of the Rockefeller Drug Laws it appears to me increasing penalties that we know do not necessarily work in terms of, you know, prohibiting, you know, drug sales is not the right answer.

I think that if we are serious about stopping drugs, then we'll do the things that we know work. I think that we'll put -- you know, instead of me going to a committee on alcoholism and substance abuse where all we do is raise penalties, if we actually put more money into drug treatment that would actually encourage people like parents to voluntarily step forward and not have penalties in terms of their relationships with their children

based on laws that we're trying -- or bills that we're trying to pass here.

I think that if we're serious about dealing with this terrible plague that has personally affected me -- and I'm sure many of my colleagues in this chamber -- that what we'll do is to do the things that we know work in terms of preventing these things. That we will increase the money for law enforcement to in fact put more law enforcement -- the penalties themselves and within themselves is not enough to protect our children. Let's increase the programs that we know in terms of youth services.

We know, and as you know, Senator Golden, we've actually cut money for youth services in our communities. What we've done during the dreaded Giuliani administration was get rid of the Department of Youth Services and merge it. We got rid of JV programs in the high schools. We've gotten rid of after-school programs. We've cut money to the Beacon School programs. And then we wonder where our young people go.

It is interesting to look at the

crime statistics in our city. And being a former police officer, I know that you know them. And during the time when under the major FBI statistical categories that crime went down in New York City, actually youth crime went up. Youth crime went up.

We now have a gang presence in New York City that didn't exist prior to 1980 -- we hadn't seen it since the '70s. And really that has a relationship to our defunding of youth programs.

I'm voting no on this, because I think that we ought to be going another way.

Thank you.

THE PRESIDENT: Senator, you will be recorded as voting in the negative on this bill.

The Secretary will again announce the results.

THE SECRETARY: Ayes, 49. Nays, 2. Senators Duane and Parker recorded -- also Senator Hassell-Thompson.

Ayes, 48. Nays, 3. Senators Duane, Hassell-Thompson, and Parker recorded in the negative.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 321, by Senator Robach, Senate Print 2315, an act to amend Chapter 677 of the Laws of 1977 amending the Civil Service Law and others.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. If the sponsor would yield for a question.

THE PRESIDENT: Senator Robach, will you yield for a question?

SENATOR ROBACH: I'd be happy to, Madam President.

SENATOR SCHNEIDERMAN: I would ask, through you, Madam President, if the sponsor knows how long ago this law, initially characterized as an experiment, was originally passed.

SENATOR ROBACH: I believe 1977 was when the law was originally passed to -- at least Chapter 677 of the Laws of 1977 were what put this into place.

SENATOR SCHNEIDERMAN: Thank you.

Thank you, Madam President. On the bill.

THE PRESIDENT: You may proceed on the bill, Senator.

SENATOR SCHNEIDERMAN: What we're dealing with here I think is something that is bad public policy, although perhaps for some it is viewed as good politics.

Twenty-six years ago, we passed this bill as an experiment. I think that 26 years is enough time to conclude that the experiment has worked.

I support extending the agency shop law permanently. Members of my conference have advanced legislation to do that. We have moved easements to extend it permanently.

We have to extend agency shop, but I don't think anyone mistakes this for anything other than what it is, which is a way to keep unions on the hook, having to come back to us begging for something which we should have passed into law permanently a long time ago.

I'm not sure what Senator Robach was doing in 1977, but I think it's a long,

long, long time, and it's time that we passed this permanently and stopped making this a political football to give us leverage over labor unions.

I'm going to vote yes, but with the reservation that 26 years is a disgraceful period of time to treat something as an experiment and continue to hold people up for its passage.

THE PRESIDENT: Does any other member wish to be heard on this bill?

Then the debate is closed.

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, 53.

THE PRESIDENT: The bill is passed.

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

Senator Maltese.

SENATOR MALTESE: Madam President, may I request unanimous consent to

be recorded in the negative on Calendar Number 321.

THE PRESIDENT: Hearing no objections, Senator, you will be so recorded as voting in the negative.

SENATOR MALTESE: Thank you.

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: No, there isn't, Senator.

SENATOR SKELOS: There being no further business to come before the Senate, I move that we stand adjourned until Monday, April 14th, at 3:00 p.m., intervening days being legislative days.

THE PRESIDENT: On motion, the Senate now stands adjourned until Monday, April 14th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:30 a.m., the Senate adjourned.)