NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

November 18, 2004

12:35 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 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, Wednesday, November 17, the Senate met pursuant to adjournment. The Journal of Tuesday, November 16, 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 Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar in its entirety, except for Resolutions 6233 and 6244.

THE PRESIDENT: All in favor of adopting the Resolution Calendar, with the exception of Resolutions 6233 and 6244, please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 6233, by Senators Leibell and Bruno, have the title read, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senators Leibell and Bruno, Legislative Resolution Number 6233, paying tribute to the distinguished and remarkable life of Christopher Reeve.

THE PRESIDENT: All in favor of adopting the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Senator Leibell would like to open up the resolution for cosponsorship. So if anybody wishes not to cosponsor the resolution, they should notify the desk.

THE PRESIDENT: Any member who does not wish to cosponsor the resolution should notify the desk.

Senator Leibell.

SENATOR LEIBELL: Thank you, Madam President.

I would like to take just a moment of the time today to remember Christopher Reeve. He was a gentleman who was a constituent and lived in my district but was certainly known to everyone around the country and the world. Not only was he a famous actor, someone who had been in the direction and production end of the movie business and was a person who appeared in live theater, but he was someone we had seen here in happier times in Albany in the past.

We all know the history of the tragic accident that he suffered and the injury he sustained. For an average person, it would have been very easy to have gone away and lived quietly in a hospital room. But Christopher Reeve was not an ordinary man. In fact, he chose, he elected to become the world's leading advocate for spinal cord research.

I had the good fortune to work with him in 1998 on the Spinal Cord Injury Research Trust Fund, which we created in this state,

and through the activity of this legislative body, which provides $8.5 million annually to spinal cord research, from traffic fines. And I had a chance, during that legislation, while it was being worked on and looking towards its passage, to speak with him on a number of occasions and thereafter to meet with him.

He was a great asset to those who felt that life had dealt them a terrible blow and possibly left them behind. He was an eloquent voice not only for those who had spinal cord injuries, but for those who suffered from any other type of serious affliction. He was well known in our community as being a great family man and a wonderful neighbor to have.

To his family and to his friends, we certainly all offer our condolences. He is an asset that will continue on, though, for our state and our community. We were all truly enriched by his life, by his bravery, and by his work.

Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President,

at this time if we could take up Resolution 6244, by Senator Little, have the title read, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Little, Legislative Resolution Number 6244, memorializing Governor George E. Pataki to proclaim November 2004 as Home Care Month in the State of New York.

THE PRESIDENT: Senator Little.

SENATOR LITTLE: Thank you.

At this time we would like to open up this resolution to all members.

We know that home care is certainly the preferred choice of most of our elderly and disabled. And what we would like to do here is point out the value of home care and to promote it.

Not only is it better for the person and their family when it's possible for them to be at home, but, as we know in our Medicaid task force and studies, that in many ways home care can prevent a far more expensive cost of residing in a nursing home.

As well as one of the other groups that I think we need to concentrate more on home care, is for our younger disabled people who have found themselves in a nursing home, that we need to be able to provide more and consistent better home care for them.

And I think by doing this resolution, we just focus on our appreciation of it and the value that it holds for our Senate body.

Thank you.

THE PRESIDENT: Senator Skelos, do you wish to open this resolution up for cosponsorship by all the members?

SENATOR SKELOS: Yeah, we'd like to open that for sponsorship. If anybody wishes not to sponsor it, they should notify the desk.

THE PRESIDENT: Any member that does not wish to sponsor this resolution should notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Rules Committee in the Majority Conference

Room. And the Senate will stand at ease pending the report of the Rules Committee.

THE PRESIDENT: First, all in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

There will be an immediate meeting, in the Majority Conference Room, of the Rules Committee. And the Senate stands at ease.

(Whereupon, the Senate stood at ease at 12:42 p.m.)

(Whereupon, the Senate reconvened at 12:50 p.m.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 7515, by the Senate Committee on Rules, an act to amend the Tax Law;

7757, by Senator Bonacic, an act to repeal Section 1 of Part G of Chapter 56 of the Laws of 2004;

Assembly Print Number 11075A, by the Assembly Committee on Rules, an act to amend the Education Law;

And Assembly Print Number 11864, by the Assembly Committee on Rules, an act to amend a chapter of the Laws of 2004.

All bills ordered direct to third reading.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

THE PRESIDENT: All in favor of accepting the report of the Rules Committee please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

Senator Skelos.

SENATOR SKELOS: If we could take up the noncontroversial reading of the Rules report.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1756, by the Assembly Committee on Rules, Assembly Print Number 11075A, an act to amend the Education Law, in relation to the allocation.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1964, Senator Bruno moves to

discharge, from the Committee on Rules, Assembly Bill Number 11625 and substitute it for the identical Senate Bill Number 7515, Third Reading Calendar 1964.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1964, by the Assembly Committee on Rules, Assembly Print Number 11625, an act to amend the Tax Law.

THE PRESIDENT: There is a local fiscal impact statement at the desk.

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, 60.

THE PRESIDENT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1966, Senator Bonacic moves to discharge, from the Committee on Rules, Assembly Bill Number 11845 and substitute it

for the identical Senate Bill Number 7757, Third Reading Calendar 1966.

THE PRESIDENT: Substitution ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1966 --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 1967, by the Assembly Committee on Rules, Assembly Print Number 11864, an act to amend a chapter of the Laws of 2004 authorizing the school district of the City of Rensselaer.

THE PRESIDENT: 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 2004.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Thank you, Madam President. If we could take up the controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1966, substituted earlier by the Assembly Committee on Rules, Assembly Print Number 11845, an act to repeal Section 1 of Part G.

SENATOR BRESLIN: Explanation, please.

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

SENATOR BONACIC: Thank you, Madam President.

This is a bill that would repeal Section 1 of Part G of Chapter 56 of the Laws of 2004. It was a component of our 2004-2005 state fiscal plan. And it would repeal Section 1809D of the Vehicle and Traffic Law relating to the authority to impose a local

surcharge.

The bottom line on this legislation is to return the vehicle and traffic justice court fines to the cities, towns and villages, as opposed to the state receiving the revenue.

This legislation has already passed the Assembly 143 to 0, and it has the support of the New York State Conferences of Mayors and Municipalities, and also the support verbally of the New York State Association of Towns.

What it amounts to, according to the revenue estimate lost by the municipalities, is $23 million. And to those municipalities that are located along interstates or major arteries of roads, it amounted to a significant amount of their town, city or village budget. And as a result of that loss, they would have to raise local property taxes to make up for that loss.

We originally passed that component in a much bigger omnibus budget bill, which the merits of that bill we were all supportive of -- except two members -- at the time. And it was something that we saw and we knew we

had to correct it down the road. That's what we're doing today.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Madam President, on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR BRESLIN: I commend Senator Bonacic for correcting what we do to localities, either take their money or mandate that they come up with money. And as Senator Bonacic mentioned, many of those localities that are along major thoroughfares happen to be in my district.

In addition, it's an example of not being able to review bills properly and the dysfunctional nature of that inability to review them. I would say that a distinct majority of this house had no idea that this particular piece of legislation was contained in the budget bill, and that's something we need to correct this session.

But again, I commend you, Senator Bonacic. And it's a positive change, a positive change to correct a wrong.

I will be voting in the affirmative.

THE PRESIDENT: Senator Brown.

SENATOR BROWN: Thank you, Madam President.

I also want to commend Senator Bonacic for his action in sponsoring and getting this bill passed. I know it will pass.

Let me say that I also want to thank the members of the Senate for the past two years in authorizing the City of Buffalo to do the very same thing.

For the last two years, I have sponsored legislation to give Buffalo the ability to adjudicate its traffic tickets, which would produce a million dollars annually for the City of Buffalo, which we all know is suffering through a fiscal control board.

I will again be introducing that legislation in January, and I will be asking my colleagues in the Senate for their support again.

But, Senator Bonacic, your action in returning this revenue for the towns and

villages across the state is important, and I salute you for your efforts.

Thank you.

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

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, I also wanted to speak on the bill.

THE PRESIDENT: You may proceed on the bill.

SENATOR DeFRANCISCO: During the budget subcommittee meetings, many of us -- I think all of us at the subcommittee had spoken against taking this revenue away from the towns and villages. And somehow, as happens in government, it became part of a budget bill that no one will ever be able to read, in view of its size.

But the fact of the matter is the accomplishment here -- and we thank Senator Bonacic for pursuing this -- is that if there is a mistake made, and there was in this case, that it can be corrected and it should be corrected. And this is going to be for the better of our towns and villages because they

need this revenue, they rely on this revenue.

So I'm going to vote yes.

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

Then the debate is closed.

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 PRESIDENT: Senator Bonacic, to explain your vote.

SENATOR BONACIC: Thank you, Madam President.

In my Senate district I have three major arteries. When we passed this budget bill and the word got down to all the municipalities, I was barraged with letters of the mistake that we made that hurt municipalities really throughout the State of New York.

I contacted Senator Bruno. And when I contacted him and he looked into it, within a very short time, he said: "This is something we have to correct."

So I want to thank the Majority Leader and my colleagues, keeping in mind that there was pressure at the time coming from the Governor's office that we were spending too much and we have to reduce our spending. And this is going contrary to the message that the Governor was giving us at the time.

So I felt that this was the right thing for all of us to do. And I'm optimistic that when our Governor looks at this, he will also think that it is worthy, that we don't want to balance the budget on the backs of our local municipalities, who are all struggling with their local tax rates for their constituents.

Thank you, Madam President.

THE PRESIDENT: You will be recorded as voting in the affirmative.

Senator Farley.

SENATOR FARLEY: Yes, thank you, Madam President. I see we have new microphones here.

Let me just say I don't think that there's been any issue in the budget, that was buried in the budget, that caused such a

firestorm in local government, among our villages and towns, as did this. And everything that Senator Bonacic said, I second.

But I also want to say I think I recall the Governor saying that he approved of the Legislature doing this. And I'm sure that -- I'm confident that as this bill goes forward, it will be signed by the Governor.

It's a great piece of legislation, it's something we need to do, and I commend my colleagues for supporting it.

Thank you.

THE PRESIDENT: Senator Farley, you will be recorded as voting in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 60.

THE PRESIDENT: The bill is passed.

Senator Skelos.

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

THE PRESIDENT: No, there isn't,

Senator.

SENATOR SKELOS: On behalf of Senator LaValle, I'd like to announce an immediate meeting of the Higher Education Committee, after session ends, in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Higher Education Committee in the Majority Conference Room at the end of session.

SENATOR SKELOS: There being no further business to come before the Senate -- would you please recognize Senator Bonacic.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President. I just want to put something on the record, if I may.

At a previous session I voted in the negative on Calendar 1502. It was Assembly Bill 11349. It passed the Senate earlier this year. I intended to be recorded in the negative on Calendar 1503.

THE PRESIDENT: You will be so recorded as voting in the negative, Senator Bonacic.

SENATOR BONACIC: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, there being no further business to come before the Senate at this time --

THE PRESIDENT: Senator Brown.

SENATOR BROWN: Thank you, Senator Skelos. Thank you, Madam President.

Madam President, I request unanimous consent to be recorded in the negative on Senate Bill 7515.

THE PRESIDENT: You will be so recorded as voting in the negative, Senator.

Senator Skelos.

SENATOR SKELOS: Does any other Senator wish to be recognized at this time?

There being no further business to come before the Senate at this time, I move that we stand adjourned at the call of the Majority Leader, intervening days being legislative days.

THE PRESIDENT: On motion, the Senate stands adjourned until the call of the Majority Leader, intervening days being legislative days.

(Whereupon, at 1:05 p.m., the Senate adjourned.)