NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 7, 2006

3:05 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, Monday, March 6, the Senate met pursuant to adjournment. The Journal of Sunday, March 5, 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 Meier.

SENATOR MEIER: Thank you, Madam President.

I wish to call up Senator Robach's bill, Senate Print 6806, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 398, by Senator Robach, Senate Print 6806, an act to amend the Retirement and Social Security Law.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Madam President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Madam President, I now offer the following amendments.

THE PRESIDENT: The amendments are received.

Senator Meier.

SENATOR MEIER: Thank you, Madam President.

On page number 26 I offer the following amendments to Senator Young's bill, Calendar Number 356, Senate Print 6269, and ask that said bill retain its place on the order of third reading.

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

SENATOR MEIER: Thank you, Madam President.

Madam President, if I may, on behalf of Senator Johnson, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Prints 1409, 1410, and 2723.

THE PRESIDENT: So ordered.

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar, with the exception of Resolution 3756.

THE PRESIDENT: All in favor of so adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The calendar is so adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 3756, by Senator Winner, have the title read, and move for its immediate adoption. And also Senator Winner has indicated he'd like to open it for cosponsorship.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator

Winner, Legislative Resolution Number 3756, memorializing Governor George E. Pataki to proclaim March 7, 2006, as "Occupational Health Awareness and Outreach Day" in the State of New York.

THE PRESIDENT: 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.

Any member who does not wish to cosponsor the last resolution please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there are substitutions at the desk.

THE PRESIDENT: Yes, there are.

The Secretary will read.

THE SECRETARY: On page 15, Senator Volker moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 9653 and substitute it for the identical Senate Bill Number 6317,

Third Reading Calendar 180.

And on page 15, Senator Volker moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 9654, and substitute it for the identical Senate Bill Number 6318, Third Reading Calendar 181.

THE PRESIDENT: Substitutions 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 139, by Senator Robach, Senate Print 5171, an act to amend the Penal Law, in relation to criminally using drug paraphernalia.

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 Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

Last year quite a few of us voted against this piece of legislation because of the process by which it came to the floor. It was reported out of the Rules Committee on June 7th and came to the floor for a vote on June 8th. And I, among others, commented that this was the kind of procedure that gives the State Legislature a bad reputation in many quarters of our state.

I'm pleased that this year the time has been taken for it to go through the Codes Committee and come to the floor in the ordinary process. It's not so hard to do things to give people a chance to consider bills.

And I hope that the procedure by which the bill came to the floor this year is what we're going to be following in the future, as opposed to the floor procedure that brought it to us last year.

I will be voting yes. Thank you, Madam President.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 141, by Senator Padavan, Senate Print 6278, an act to amend the Penal Law, in relation to the seizure and forfeiture.

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 SECRETARY: Ayes, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 142, by Senator Padavan, Senate Print 6279, an

act to amend the Penal Law, in relation to establishing.

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 SECRETARY: Ayes, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 180, substituted earlier today by Member of the Assembly Tokasz, Assembly Print Number 9653, an act to amend 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 181, substituted earlier today by Member of the Assembly Tokasz, Assembly Print Number 9654, an act to amend 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, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 312, by Senator Marcellino, Senate Print 663, an act to amend the Penal Law, in relation to including.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 323, by Senator Golden --

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 325, by Senator Robach, Senate Print 3179, an act to amend the Civil Service Law, in relation to improper labor practices.

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, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 351, by Senator LaValle, Senate Print 557, an act to amend the Education Law, in relation to inclusion.

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, 41. Nays, 1. Senator Connor recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 354, by Senator Maziarz, Senate Print 208A, an act to amend the Executive Law, in relation to creating and authorizing.

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, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 362, by Senator Spano, Senate Print 6700, an

act to amend the Labor Law, in relation to the standards of conduct.

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 365, by Senator Little, Senate Print 722, an act to amend the General City Law, the Town Law, and the Village Law, in relation to establishing.

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: Those recorded in the negative on Calendar Number 365 are Senators LaValle, Leibell, Marcellino and

Winner. Ayes, 40. Nays, 4.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 390, by Senator Seward, Senate Print 6420A, an act to amend the Highway Law, in relation to designating.

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, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 392, by Senator Golden, Senate Print 4446, an act to amend the Civil Service Law, in relation to permitting the children of firefighters.

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, 44.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

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

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

SENATOR SKELOS: Would you please recognize Senator Savino.

THE PRESIDENT: Senator Savino.

SENATOR SAVINO: Thank you. One second, Madam President.

Madam President, I believe there's a motion at the desk. I would ask that it be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Print 5488, by Senator Savino, an act to amend Chapter 677 of the Laws of 1977, amending the Civil Service Law.

THE PRESIDENT: Senator Savino.

SENATOR SAVINO: Thank you, Madam President.

New York State's public employees do the difficult job of keeping New York safe and running. These employees are represented by a number of unions, including the Civil Service Employees Association, the Public Employees Federation, Council 82 of AFSCME, United University Professions, New York State United Teachers, local police benevolent associations, local firefighters unions, District Council 37 in New York City, the Communications Workers of America, the Transport Workers Union, and others.

The agency fee provision of the Public Employees Fair Employment Act, known as the Taylor Law, was first enacted in 1977. And that law requires public workers to pay union dues whether they are members of the union or not.

Because the Taylor Law requires public employee unions to represent the interests of every worker in its bargaining unit equally, including both members and

nonmembers, nonmembers have enjoyed the increased wages, salaries, benefits and protections and fringe benefits negotiated by those respective unions.

This law, initially characterized as an experiment in 1977, has been on the books since then. I would suggest that 29 years as an experiment is enough time to draw some conclusions as to whether or not the experiment has worked. The Legislature has extended this law every two years since it was first enacted.

As a matter of fact, when I first became a member of DC 37, I got on a bus one day in 1992 and I came with dozens of other members of DC 37 on our annual Lobby Day trip. And one of the things we were coming to lobby on, one of our legislative items, was permanent agency shop. That was 14 years ago.

I took many Lobby Day trips coming to Albany to talk about permanent agency shop. And here I stand now, as a member of the Legislature, and I'm still talking about permanent agency shop.

Let's stop playing games. Let's

make this law permanent. Making the agency shop law permanent will send a strong message to New York's public-sector unions that this state's leaders are attentive to their issues and understand the things that are important to organized labor.

Thank you.

THE PRESIDENT: All in favor, all Senators in favor of the petition please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Breslin, Connor, Coppola, Diaz, Dilan, Duane, Gonzalez, Klein, L. Krueger, Montgomery, Onorato, Paterson, Sabini, Sampson, Savino, Schneiderman, A. Smith, M. Smith and Valesky.

THE PRESIDENT: The petition is not agreed to.

Senator Skelos.

SENATOR SKELOS: Madam President, there being no further business, I move we stand adjourned until Wednesday, March 8th, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate now stands adjourned until Wednesday,

March 8th, 11:00 a.m.

(Whereupon, at 3:21 p.m., the Senate adjourned.)