NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 22, 2006

11:10 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, March 21, the Senate met pursuant to adjournment. The Journal of Monday, March 20, 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 Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR FUSCHILLO: On behalf of Senator Johnson, I wish to call up Senate Print 6450B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 492, Senate Budget Bill, Senate Print 6450B, an act making appropriations for the support of government: Public Protection and General Government Budget.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

THE PRESIDENT: The Secretary

will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR FUSCHILLO: I now move to recommit the bill to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Johnson, I wish to call up Senate Print Number 6451, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 493, Senate Budget Bill, Senate Print 6451, an act making appropriations for the support of government: Legislature and Judiciary Budget.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

SENATOR FUSCHILLO: I now move to

recommit the bill to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Johnson, I wish to call up Senate Print Number 6453B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 495, Senate Budget Bill, Senate Print 6453B, an act making appropriations for the support of government: Education, Labor and Family Assistance Budget.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

SENATOR FUSCHILLO: I now move to recommit the bill to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam

President, on behalf of Senator Johnson, I wish to call up Senate Print Number 6454B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 496, Senate Budget Bill, Senate Print 6454B, an act making appropriations for the support of government: Health and Mental Hygiene Budget.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

SENATOR FUSCHILLO: I now move to recommit the bill to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Johnson, I wish to call up Senate Print Number 6455B, recalled from the Assembly, which is now at

the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 497, Senate Budget Bill, Senate Print 6455B, an act making appropriations for the support of government: Transportation, Economic Development and Environmental Conservation Budget.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

SENATOR FUSCHILLO: I now move to recommit the bill to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Johnson, I wish to call up Senate Print Number 6456B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Calendar Number 498, Senate Budget Bill, Senate Print 6456B, an act to amend the General Municipal Law and others.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

SENATOR FUSCHILLO: I now move to recommit the bill to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Johnson, I wish to call up Senate Print Number 6457B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 499, Senate Budget Bill, Senate Print 6457B, an act to amend the Social Services Law and

others.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

SENATOR FUSCHILLO: I now move to recommit the bill to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Johnson, I wish to call up Senate Print Number 6458B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 500, Senate Budget Bill, Senate Print 6458B, an act to amend the Education Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

THE PRESIDENT: The Secretary

will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

SENATOR FUSCHILLO: I now move to recommit the bill to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Johnson, I wish to call up Senate Print Number 6459B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 501, Senate Budget Bill, Senate Print 6459B, an act to amend the Environmental Conservation Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

SENATOR FUSCHILLO: I now move to

recommit the bill to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, finally, I wish to call up Senate Print Number 6460B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 502, Senate Budget Bill, Senate Print 6460B, an act to amend the Real Property Tax Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

SENATOR FUSCHILLO: I now move to recommit the bill to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam President.

On behalf of Senator Little, on page number 25 I offer the following amendments to Calendar Number 411, Senate Print 3376C, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a substitution at the desk, if we could make it at this time.

THE PRESIDENT: Yes, there is.

The Secretary will read.

THE SECRETARY: On page 25, Senator Skelos moves to discharge, from the Committee on Local Government, Assembly Bill Number 9853B and substitute it for the identical Senate Bill Number 6829A, Third Reading Calendar 419.

THE PRESIDENT: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, I have two resolutions at the desk, 4127 and

4128. If we could have the titles read, and then I'd like to open them up for sponsorship.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Skelos, Legislative Resolution Number 4127, paying tribute to the memory of Master Sergeant Michael Henry Maltz upon the occasion of a memorial bench being dedicated in his honor on the boardwalk in Long Beach, New York.

And by Senator Skelos, Legislative Resolution Number 4128, paying tribute to the memory of Specialist Jacob Samuel Fletcher upon the occasion of a memorial bench being dedicated in his honor on the boardwalk in Long Beach, New York.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolutions are adopted.

Senator Skelos.

SENATOR SKELOS: Yes. If we could open them up again for cosponsorship. If anybody wishes not to sponsor them, they should notify the desk.

THE PRESIDENT: Any member who did not wish to cosponsor the last two resolutions please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a Resolution 4148 at the desk, by Senator Parker. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Parker, Legislative Resolution Number 4148, honoring Marietta Small upon the occasion of her retirement.

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.

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 189, by Senator Saland, Senate Print 471A, an act to amend the Social Services Law, in relation to abandoned infants.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 12. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 190, by Senator Skelos, Senate Print 488A, an act to amend the Family Court Act and the Domestic Relations Law, in relation to abandoned infants.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 10. This act shall take effect on the 60th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 286, by Senator Maziarz, Senate Print 6641, an act to amend the Labor Law, in relation to contractors.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 293, by Senator Winner, Senate Print --

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 414, by Senator Rath, Senate Print 5607, an act to amend the Real Property Tax Law, in relation to third-party notice.

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, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 418, by Senator Maziarz, Senate Print 6689A, an act to amend Chapter 712 of the Laws of 1968, relating to the incorporation.

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, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 419, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 9853B, an act to amend the Real Property Tax 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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 472, by Senator Maltese, Senate Print 6836, an act to amend the Civil Service Law, in relation to resolution.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 509, by Senator Maziarz, Senate Print 1137, an act authorizing how certain casino revenue monies from the Seneca Niagara Casino shall be disbursed.

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 PRESIDENT: Senator Coppola, to explain your vote.

SENATOR COPPOLA: Thank you, Madam President.

While I appreciate Senator Maziarz putting this bill before us today to release $1 million from the Niagara Casino share of the funding mechanism that has been put in place by this state, I would be remiss if I

didn't mention that there are other entities, such as the City of Niagara Falls, such as the school district, that have to date not received their fair share of the funds '04 and '05.

And as we know, in upstate New York there are many entities that are suffering, school districts, there are many cities suffering from the lack of funds. And these casino revenues were meant to support those local entities.

So again, while I support the Convention and Tourism Bureau to get their funds, I would again be remiss not to mention that the Governor to date has not released the share to those other entities. And I encourage and urge the Governor to release those funds so that some burden can be lifted from the taxpayers and that the benefits of the casino are realized in the City of Niagara Falls and the surrounding area.

Thank you very much, Madam President, and I vote yes.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 54. Nays, 1. Senator Padavan recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 511, by Senator Larkin, Senate Print 2351, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to free passes, cards or badges.

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 PRESIDENT: Senator Sabini, to explain your vote.

SENATOR SABINI: Thank you, Madam President.

In explaining my vote, I wanted to mention that, in discussion with the sponsor and our chairman, that this bill will in no way obstruct the State Lobbying Commission's

ban on gifts to legislators, so I'll be voting in the affirmative.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 54. Nays, 1. Senator Padavan recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 513, by Senator Bonacic, Senate Print 3346, an act to amend the Tax Law, in relation to issuance.

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, 53. Nays, 2. Senators L. Krueger and Padavan recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 526, by Senator Bonacic, Senate Print 6531, an act to amend the Retirement and Social Security Law, in relation to benefits payable.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 531, by Senator Rath, Senate Print 4939, an act to amend the Real Property Tax Law, in relation to third-party notice.

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, 55.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 532, by Senator Golden, Senate Print 5804, an act to amend the Social Services Law, in relation to requiring.

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, 55.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

SENATOR SKELOS: Thank you, Madam President.

Is there any further business at the desk?

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

SENATOR SKELOS: Would you please recognize Senator Klein.

THE PRESIDENT: Senator Klein.

SENATOR KLEIN: Madam President, I believe there's a motion on the desk. I ask that the reading be waived and I have the opportunity to speak on the said motion.

THE PRESIDENT: The Secretary does need to read the petition, the motion.

The Secretary will read.

THE SECRETARY: Senate Print 5581, by Senator Klein, an act to amend the Public Health Law.

THE PRESIDENT: Senator Klein.

SENATOR KLEIN: This motion would actually sort of be an amendment to what we're already doing in the state of New York, where presently we can get price information on the Internet for prescription drug prices.

I conducted a study last year which showed the tremendous disparities in prescription drug prices, especially when it comes to chain-store pharmacies. What we found was that time and time again, chain-store pharmacies are charging more money for the same exact prescription drug than independent pharmacies -- in some cases, anywhere from 25 to 50 percent more for the

same prescription drug, the same dosage.

We also found something that was a lot more frightening, that even within the same chain there's a disparity in prices. In other words, you can go to one Eckerd drugstore or a Duane Reade drugstore and pay a different price according to where the chain-store pharmacy is located. We also found a tremendous disparity between the individual chains.

So what in essence we're doing, we're forcing people, mainly senior citizens, to have to shop around. And in many cases they can't do that, because their local pharmacy is the pharmacy that's nearest to them and charging such a ridiculous price.

I applaud the effort we made last year in a bipartisan fashion in having this information on the Internet. But we have a problem. Most senior citizens across the state of New York still don't use the Internet. I'm always fond of going into senior centers and talking about this new law, and when I ask them to raise their hand, maybe three or four raise their hand, and I jokingly

tell them, "Well, you better get a 7-year-old to teach you how to use the Internet to be able to get your prescription drug prices."

So this legislation is very, very simple. What it would do is, in addition to our Internet system that we presently have, it would create a 1-800 number where senior citizens or anyone can call and access that information.

I guarantee you, once we educate our constituency across the state of New York with the Internet, with this new 1-800 number, I guarantee you we're finally going to see the price of prescription drugs plummet throughout the state of New York.

So I urge passage of this amendment.

THE PRESIDENT: All those Senators in favor of the petition out of committee please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Coppola, Diaz, Dilan, Gonzalez, Klein, C. Kruger, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Sampson, Savino,

Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

THE PRESIDENT: The petition is not agreed to.

Senator Skelos.

SENATOR SKELOS: Madam President, there being no further business to come before the Senate, I move we stand adjourned until Monday, March 27th, at 3:00 p.m., intervening days being legislative days.

THE PRESIDENT: On motion, the Senate now stands adjourned until Monday, March 27th, 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:31 a.m., the Senate adjourned.)