NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 22, 2007

3:29 p.m.

REGULAR SESSION

SENATOR THOMAS P. MORAHAN, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MORAHAN: The Senate will 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 MORAHAN: In the absence of clergy, will you please bow your heads for a moment of silence.

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

ACTING PRESIDENT MORAHAN: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, January 21, the Senate met pursuant to adjournment. The Journal of Saturday, January 20, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Senator Skelos.

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

And the Senate will stand at ease.

ACTING PRESIDENT MORAHAN: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:31 p.m.)

(Whereupon, the Senate reconvened at 3:39 p.m.)

ACTING PRESIDENT MORAHAN: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: If we could continue, regular order, please.

ACTING PRESIDENT MORAHAN: Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno,

from the Committee on Rules, reports the following bill direct to third reading:

Senate Print 1322, by Senator Bruno, an act to amend the State Finance Law.

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

ACTING PRESIDENT MORAHAN: All those in favor of accepting the Rules Committee report say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Nay?

(No response.)

ACTING PRESIDENT MORAHAN: The report is accepted.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a Resolution Number 150 at the desk, by Senator Schneiderman. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT MORAHAN: The

Secretary will read.

THE SECRETARY: By Senator Schneiderman, Legislative Resolution Number 150, memorializing Governor Eliot Spitzer to proclaim January 26, 2007, as Juan Pablo Duarte Day in the State of New York.

ACTING PRESIDENT MORAHAN: Senator Schneiderman, on the resolution.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. On the resolution.

Today is the day that we are resolving to commemorate the birth of Juan Pablo Duarte.

And it's a very important, I think, resolution as we start this new cycle to celebrate people who were warriors in the cause of democracy. We take for granted the right to vote here, the right to have a democratic government. But we're reminded by our friends and family from the Dominican Republic that that right is not easily won.

So we celebrate today a great fighter in the cause of liberty, and we're honored to be joined today by some of the consuls from the Dominican Consulate, who are

here to celebrate with us. It's an important day for all who believe in the cause of freedom and democracy.

And I hope that as our education system continues to improve, more of our children will learn of the historic struggle and the heroic struggles of Juan Pablo Duarte and the Duartianos.

And if I may, Mr. President, (Comments on the Resolution spoken in Spanish].

So felicidades, bienvenidos, and it's great that we're here to celebrate together.

Thank you very much, Mr. President.

ACTING PRESIDENT MORAHAN: Senator Schneiderman, I'm really impressed.

(Laughter.)

SENATOR SCHNEIDERMAN: It wasn't that hard, Mr. President.

(Laughter.)

ACTING PRESIDENT MORAHAN: Senator Diaz, on the resolution.

SENATOR DIAZ: Thank you, Mr. President.

It gives me great honor and privilege to join my colleague Senator Schneiderman in this resolution, due to the fact that we are honoring a great leader and a great nation, the representative of that nation, that we have members of the Dominican consul here representing the whole community.

And during the Hispanic part that he tried so hard to do, (Comments on the Resolution spoken in Spanish].

Mucho gracias, Mr. President.

SENATOR SCHNEIDERMAN: Mr. President, that was Yiddish, in case you --

(Laughter.)

ACTING PRESIDENT MORAHAN: Should you have noticed.

Anyone else on the resolution?

The question is on the resolution. All those in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT MORAHAN: Nay?

(No response.)

ACTING PRESIDENT MORAHAN: The ayes have it. The resolution is adopted.

Senator Schneiderman, is that

resolution open to the membership?

SENATOR SCHNEIDERMAN: Yes, it is, Mr. President, open to all.

ACTING PRESIDENT MORAHAN: Okay. The resolution is open to all. Those who do not want to be on this particular resolution please notify the desk.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial reading of the calendar, beginning with Calendar Number 38, Senate 1322.

ACTING PRESIDENT MORAHAN: The Secretary will read.

THE SECRETARY: Calendar Number 38, by Senator Bruno, Senate Print 1322, an act to amend the State Finance Law.

ACTING PRESIDENT MORAHAN: Read the last section.

THE SECRETARY: Section 23. This act shall take effect immediately.

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN:

Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 3, by Senator Padavan, Senate Print 68, an act to amend the Penal Law.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 8, by Senator Golden, Senate Print 158, an act to amend the Penal Law, in relation to criminal use of public records.

ACTING PRESIDENT MORAHAN: Read

the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 8 are Senators Duane and Serrano. Ayes, 55. Nays, 2.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 9, by Senator Maziarz, Senate Print 257, an act to amend the Penal Law, in relation to the crime of surreptitious surveillance.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MORAHAN: The bill is passed.

THE SECRETARY: Calendar Number 10, by Senator Skelos, Senate Print 431, an act to amend the Penal Law, in relation to failure to report.

ACTING PRESIDENT MORAHAN: Read the last section.

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

ACTING PRESIDENT MORAHAN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MORAHAN: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I rise to explain my vote.

I will be voting in support of this legislation, but I would like to do a codicil to the will, if you will.

This legislation is part of the

Child Sexual Assault Reform Act. And for the last four years, of the six that I've been here in the State Senate, I have been making a vigorous attempt to pass this bill in its entirety. The only part of me that's pleased to see at least that incrementally this bill is getting passed.

My concern is that if this bill was really good in its essence, why this bill wasn't passed in its entirety, particularly because we have had so many people who are looking forward to the passage of this bill so that we can talk about prosecution of people who have committed sexual assaults against children. And we also have been looking hard and long for a resolution to the statute of limitations.

In working on this bill, I have developed it based upon the recommendations of the Suffolk County Supreme Court special grand jury and their investigation of clergy abuse in the Diocese of Rockville Centre; I've consulted with the Bronx, Westchester, and Rensselaer district attorneys and the New York State Trial Lawyers, all of whom have worked

to help to fine-tune and to hone this bill into something that would be crafted to respond to the needs of our constituents.

And while the elimination of the statute of limitations was passed by Senator Skelos last year, and while he has established a five-year statute of limitations for civil lawsuits for crimes of rape in the first degree and criminal sexual act and aggravated sexual abuse first degree or course of sexual conduct against a child in the first degree, and while it has created mandatory reporting of child abuse, including sexual assault, there are pieces that are still missing in this bill.

And one of those is the creation of the crime of endangering the welfare of a child in the first degree, which is an E felony and, secondly, a misdemeanor degree, and adds them to the list of specified premeditated crimes.

It also fails to extend the statute of limitations for hindering the prosecution of a sexual offense. It fails to add clergy to the list of mandated reporters without --

with the exception of confessional, the confessional. And it further does not allow for a two-year window for this course of action to take place.

I would hope, Senator Skelos, in your review of this bill, that as you pick and choose to pass legislation along lines that I'm not clear about that you will continue to pursue these aspects of the bill so that the people and particularly the children who have been abused in this state have a decent and appropriate recourse.

Thank you, Mr. President.

ACTING PRESIDENT MORAHAN: Thank you, Senator.

Senator Hassell-Thompson, how do you cast your vote?

SENATOR HASSELL-THOMPSON: I'm voting in support.

ACTING PRESIDENT MORAHAN: Announce the results.

THE SECRETARY: Ayes, 57. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT MORAHAN: The

bill is passed.

THE SECRETARY: Calendar Number 17, by Senator Bruno --

SENATOR SKELOS: Lay it aside for the day, please.

ACTING PRESIDENT MORAHAN: The bill is laid aside for the day.

Senator Skelos.

SENATOR SKELOS: If you could recognize Senator Sampson, please.

ACTING PRESIDENT MORAHAN: Senator Sampson.

SENATOR SAMPSON: Thank you very much, Senator Skelos. Thank you, Mr. President.

I would like to state for the record that if I had been in the chamber on Tuesday, January 16th, I would have voted in favor of Resolution Number 128 by Senator Smith.

Thank you.

ACTING PRESIDENT MORAHAN: The record will reflect that statement. Thank you, Senator.

Senator Skelos.

SENATOR SKELOS: Is there any further business at the desk?

ACTING PRESIDENT MORAHAN: There is no other further business at the desk.

SENATOR SKELOS: Mr. President, on behalf of Senator Bruno, I hand up the committee assignment changes to be filed in the Journal.

ACTING PRESIDENT MORAHAN: The committee list is accepted.

SENATOR SKELOS: Mr. President, there being no further business to come before the Senate, I move we stand adjourned until Tuesday, January 23rd, at 11:00 a.m.

ACTING PRESIDENT MORAHAN: On motion, the Senate stands adjourned until Tuesday, January 23rd, at 11:00 a.m.

(Whereupon, at 3:51 p.m., the Senate adjourned.)