NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 29, 2007

11:10 a.m.

REGULAR SESSION

SENATOR JAMES W. WRIGHT, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT WRIGHT: 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 WRIGHT: In the absence of clergy today, may we bow our heads in a moment of silence.

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

ACTING PRESIDENT WRIGHT: Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, March 27, the Senate met pursuant to adjournment. The Journal of Tuesday, March 26, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT WRIGHT: 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 Robach.

SENATOR ROBACH: Yes, Mr. President. On page 27 I offer the following amendments to Calendar Number 432, Senate Print Number 177, by Senator Alesi, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 145, by Senator Marcellino, Senate Print 1559,

an act to amend the Environmental Conservation Law, in relation to management of wildlife resources.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first of January.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40. Nays, 1. Senator Serrano recorded in the negative.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 178, by Senator DeFrancisco, Senate Print 242A, an act to amend the Labor Law, in relation to prohibiting.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Sabini.

SENATOR SABINI: To explain my vote, Mr. President.

ACTING PRESIDENT WRIGHT: Senator Sabini, to explain his vote.

SENATOR SABINI: I want to commend Senator DeFrancisco on this bill that, in an earlier version, passed the Senate under Senator Spano's sponsorship. The bill now has better definitions, increased penalties.

This is an issue that I have met with a number of groups on from my district, women from the South Asian community, women from the Southeast Asian community -- women from the Philippines, from Bangladesh, from Pakistan, from India.

And it speaks to an issue that lives in our bedrooms and living rooms that people don't want to talk about, but the abuse of workers who are not on the books who are used as domestics, whose immigration status may be questionable but whose status as human beings is no less important to them -- or to us, frankly.

And I commend the sponsor for his bill.

Thank you. I vote in the affirmative.

ACTING PRESIDENT WRIGHT: Senator Sabini will be recorded in the affirmative.

Results?

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 247, by Senator LaValle, Senate Print 1527, an act to amend the Education Law, in relation to unlawful sale of dissertations.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number

312, by Senator Larkin, Senate Print 1691, an act to authorize the Town of Marlborough, in the County of Ulster.

ACTING PRESIDENT WRIGHT: There is a home-rule message at the desk.

Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 316, by Senator Sampson, Senate Print 115, an act to amend the Penal Law, in relation to changing sexual abuse in the second degree from a Class A.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 322, by Senator Volker, Senate Print 2373, an act to amend the Penal Law, in relation to assaults.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: I vote yes.

But I just wanted to mention that if an assault on someone in a certain location is an assault in the second degree, it should not depend upon who that someone is.

Originally the law apparently said assault on a train operator, a ticket

inspector, conductor, signal person, et cetera, et cetera, it elevated it to a Class D felony; namely, assault in the second degree. Now we're adding station cleaner, terminal cleaner.

I just don't get it. I mean, if it's -- I understand the need to protect these people. But if there's a need to protect everybody that's working in this capacity in a situation where it's a subway or a train, it doesn't make much sense to me why you'd do it in a way that you name every conceivable human being that's working in that place and if you forget one, you add another one.

So I think assault in the second degree should be the penalty for anyone who commits assault in certain circumstances. And I'll vote yes, however, but I think it's a better way to do it.

ACTING PRESIDENT WRIGHT: Senator DeFrancisco will be recorded in the affirmative.

Senator Volker.

SENATOR VOLKER: Mr. President, very quickly, to explain my vote.

I agree with you, Senator DeFrancisco. There's only one problem. To get this bill through the Assembly, I have to do it this way. I don't particularly -- I agree with you a hundred percent. In fact, I think assault, as I've said for years, ought to be upgraded on a general basis, which makes very good sense.

Unfortunately, the way we have to deal with the Assembly, this seems to be the only way that we can get upgrades of this type. So I agree with you a hundred percent. But unfortunately, we have to deal with reality, and that's why this bill.

I vote aye.

ACTING PRESIDENT WRIGHT: Senator Volker will be recorded in the affirmative.

Results?

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 384, by Senator Saland, Senate Print 1071, an act to amend the Social Services Law, in relation to abandoned infants.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 394, by Senator Leibell, Senate Print 3588, an act to amend the Penal Law, in relation to unlawful defilement.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 397, by Senator Leibell, Senate Print 3743, an act to amend the Executive Law, in relation to increasing port security.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 401, by Senator Skelos, Senate Print 1815, an act to amend the Penal Law, in relation to assaults at a sports contest.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Senator Robach, to explain his vote.

SENATOR ROBACH: Mr. President, just very briefly. I want to applaud Senator Skelos for this bill.

Unfortunately, this is no longer a minor issue in our society. I think we have to do all we can -- I'm someone who loves sports, loves kids, whether it's my own or coaching other children. And I continue to be amazed that in spite of all the efforts to promote sportsmanship and civility, you know, from all parts of the country, let alone the state, we have a rising incidence of violence not by the student athletes or the players themselves, but by the parents.

And just this last month, we can no longer even have the sectionals for high school basketball at our biggest facilities, something the students look forward to, because the fans, including parents, were fighting. We had to bring in almost the entire Rochester Police Department to break up that incident.

And so from large-scale incidents to things you see on the news of parents charging out to beat up an official or someone who doesn't agree with them or makes a call, I think this legislation is very, very much needed, in addition to us continuing to teach our children about civility and the importance of fair play and respecting others.

Maybe we could even use a little of this in this chamber ourselves, respecting civility and other things.

But I'm very happy to vote in the affirmative and thank Senator Skelos for the bill.

ACTING PRESIDENT WRIGHT: Senator Robach will be recorded in the affirmative.

Senator Sabini, to explain his vote.

SENATOR SABINI: Thank you, Mr. President.

I'm going to vote in the affirmative and want to be recorded as such. I don't want to go through the theater of the debate that I've had through last few years with the sponsor on this.

But I just wish we would amend this bill to include the players. Because we've had a number of incidents where players have gone in and assaulted fans. And I think the fans we represent deserve no less protection from some of these players.

We've had two Yankees assault one of the ground crew in Boston. We had the horrible incident between the Pistons and the Pacers where several fans were hurt. And then we had the dreaded attack on the Italian Sausage in Milwaukee, which I took personal affront to.

So I just wish that in the future -- and I assume this bill will again not pass the Assembly -- that we would try to find a way to protect everyone, including the spectators, who pay good money to come to these games and have been in some cases assaulted by the players.

Thank you. I vote aye.

ACTING PRESIDENT WRIGHT: Thank you. Senator Sabini will be recorded in the affirmative.

Can we have some quiet, please, in

the chambers.

Results?

THE SECRETARY: Those recorded in the negative on Calendar Number 401 are Senators Montgomery and Perkins.

Ayes, 52. Nays, 2.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 402, by Senator Volker, Senate Print 1965, an act to amend the Criminal Procedure Law, in relation to peace officers appointed.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect immediately.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 402 are Senators Dilan, Duane, Hassell-Thompson, L. Krueger and Perkins.

Ayes, 49. Nays, 5.

ACTING PRESIDENT WRIGHT: The

bill is passed.

THE SECRETARY: Calendar Number 425, by Senator LaValle, Senate Print 3065 --

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

ACTING PRESIDENT WRIGHT: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 428, by Senator LaValle, Senate Print 2600, an act to amend the Education Law, in relation to hazing.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 431, by Senator Skelos, Senate Print 3828, an act to amend the Family Court Act and the Domestic Relations Law, in relation to

abandoned infants.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT WRIGHT: There is none.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Friday, March 30th, at 11:00 a.m.

ACTING PRESIDENT WRIGHT: On motion, the Senate stands adjourned until Friday, March 30, at 11:00 a.m.

(Whereupon, at 11:27 a.m., the Senate adjourned.)