NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 18, 2008

3:02 p.m.

REGULAR SESSION

SENATOR CARL L. MARCELLINO, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MARCELLINO: The Senate will come to order.

I ask everyone present please to rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT MARCELLINO: We have the Reverend Peter G. Young, from Mother Theresa Community Church in Albany, to do the opening prayer.

REVEREND YOUNG: Thank you, Senator.

As we stand underneath the State Seal, the seal is the motto "Excelsior," "ever upward," and it replaced the place of the crown in 1777. Lady Liberty, with a peasant cap, represents democratic rule that has left her left foot stepping on the crown, representing the rejection of royalty.

As citizens of the Empire State, we have been the leader with our Constitution, twelve years before the federal Constitution. And as a national leader You have given these

Senators a great power and a great responsibility.

We pray that their work will always be in Your image and honor for all New Yorkers.

Amen.

ACTING PRESIDENT MARCELLINO: May we have the reading of the Journal.

THE SECRETARY: In Senate, Monday, March 17, the Senate met pursuant to adjournment. The Journal of Sunday, March 16, was read and approved. On motion, Senate adjourned.

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

Presentation of pensions.

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, Mr. President.

On behalf of Senator DeFrancisco, on page number 24 I offer the following amendments to Calendar Number 395, Senate Print Number 912, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator LaValle, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Print Number 7009.

ACTING PRESIDENT MARCELLINO: So ordered.

SENATOR FUSCHILLO: Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I move that the following bills be discharged from their respective committees

and be recommitted with instructions to strike the enacting clause, on behalf of Senator Valesky: 6425A and 6892.

And also, on behalf of Senator Aubertine, I move that the following bill be discharged from its committee and be recommitted with instructions to strike the enacting clause: 7100.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: So ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there are substitutions at the desk. If we could make them at this time.

ACTING PRESIDENT MARCELLINO: The Secretary will read the substitutions.

THE SECRETARY: On page 38, Senator Golden moves to discharge, from the Committee on Codes, Assembly Bill Number 9818 and substitute it for the identical Senate Bill Number 6979, Third Reading Calendar 554.

ACTING PRESIDENT MARCELLINO: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar, with the exception of Resolution 4703.

ACTING PRESIDENT MARCELLINO: All in favor of adopting the Resolution Calendar, with the exception of Resolution 4703, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could have the title read on Resolution 4703, by Senator Bruno, open it up for cosponsorship, and move for its immediate adoption.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: By Senators Bruno and Rath, Legislative Resolution Number 4703, memorializing Governor David A. Paterson to designate March 2008 as Women's History Month

in the State of New York, and commemorating the New York State Senate's "Women of Distinction" Tribute.

ACTING PRESIDENT MARCELLINO: Senator Rath, on the resolution.

SENATOR RATH: Yes, Mr. Chairman, I'd like to add my urging of my colleagues to support this.

March, as you know, is Women's History Month. This year we're selecting three new women from New York's history deserving to be part of the New York State Senate "Women of Distinction": Suffragist Rosalie Jones, from Oyster Bay; astronomer Maria Mitchell, from Poughkeepsie; and pilot and adventurer Blanche "Betty" Stuart Scott, of Rochester.

These women's vast contributions are now part of our Senate's "Women of Distinction" display, and I urge my colleagues to support this effort.

Thank you.

ACTING PRESIDENT MARCELLINO: The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The resolution is adopted.

Senator Skelos.

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

ACTING PRESIDENT MARCELLINO: There will be an immediate meeting of the Finance Committee in Room 332.

SENATOR SKELOS: If we can stand at ease, please.

ACTING PRESIDENT MARCELLINO: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:07 p.m.)

(Whereupon, the Senate reconvened at 3:17 p.m.)

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: Mr. President,

if we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT MARCELLINO: Yes, we can, sir.

But before we do, we'd like to open the previous resolution, 4703, for cosponsorship. If anyone wishes not to be on it, please notify the desk.

Senator Farley.

SENATOR FARLEY: Yeah, if I may, I was asked to announce that this is University of Albany Day. Four hundred alumni will be down in the Albany Room from 4:30 to 6:30. There are a number of members that are graduates of the University of Albany.

I made the announcement. Thank you.

ACTING PRESIDENT MARCELLINO: Thank you. And we can move now to the noncontroversial reading of the calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 50, by Senator Maziarz, Senate Print 6237A, an act to amend the Labor Law, in relation to directing.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 280, by Senator Trunzo, Senate Print 2399B, an act to amend the Public Health Law, in relation to authorizing the Commissioner of Health.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 283, by Senator Maltese, Senate Print 6860, an act to amend the Labor Law, in relation to labeling.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 324, by Senator Volker, Senate Print 6701A, an act to amend the Penal Law and others, in relation to the unlawful sale of alcohol.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 359, by Senator DeFrancisco, Senate Print 6844, an act to amend the Executive Law, in relation to establishing Military Spouse Day.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

I'm going to vote in the affirmative on this bill, but I do want to point out that members of the gay, lesbian bisexual and transgender community cannot serve in the military with being open about who they are. And also the gay, lesbian, bisexual and transgender community is not

afforded the ability to have a spouse in our state.

So I am going to vote yes on it, with the hope that Military Spouse Day will in the very near future actually be an inclusive holiday for all New Yorkers.

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Announce the results, please.

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 361, by Senator Maltese, Senate Print 6863, an act to amend the Labor Law, in relation to transportation of goods.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 422, by Senator Marcellino, Senate Print 3194A, an act to amend the Penal Law, in relation to increasing penalties.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 424, by Senator LaValle, Senate Print 3432A, an act to amend the Penal Law and the Correction Law --

SENATOR SKELOS: Lay it aside, please.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 450, by Senator Saland, Senate Print 5669A, an act to amend the Education Law, in relation to child abuse reporting requirements.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 26. This act shall take effect July 1, 2009.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 452, by Senator Farley, Senate Print 6452, an act in relation to validating certain acts.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 504, by Senator Young, Senate Print 391, an act to amend the Vehicle and Traffic Law, in relation to the definition of "drug."

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 30th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 511, by Senator DeFrancisco, Senate Print 1823, an act to amend the Navigation Law, in relation to the operation of a vessel recklessly.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 517, by Senator Little, Senate Print 4241, an act to amend the Navigation Law, in relation to chemical testing.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 7. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 526, by Senator Padavan, Senate Print 67, an act to amend the Penal Law, in relation to possession of gambling devices.

ACTING PRESIDENT MARCELLINO:

Read the last section.

THE SECRETARY: Section 5. This act shall take effect --

SENATOR ADAMS: Lay it aside.

ACTING PRESIDENT MARCELLINO: Lay the bill aside.

THE SECRETARY: Calendar Number 531, by Senator Maziarz, Senate Print 253A, an act to amend the Penal Law, in relation to killing or injuring a police animal.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 533, by Senator Skelos, Senate Print 431, an

act to amend the Penal Law, in relation to failure to report.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 540, by Senator Fuschillo, Senate Print 1532, an act to amend the Penal Law, in relation to increasing penalties.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO:

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 550, by Senator Flanagan, Senate Print 4398A, an act to amend the Penal Law, in relation to establishing home invasion robbery offenses.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number 554, substituted earlier today by Member of the Assembly Silver, Assembly Print Number 9818, an act to amend the Penal Law, in relation to including.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos, that --

SENATOR SKELOS: Before we go to the controversial calendar, I want to just check whether Calendar Number 526 was laid aside.

ACTING PRESIDENT MARCELLINO: Calendar Number 526 was laid aside at the request of Senator Adams.

He has notified the desk that he does not wish to have that bill laid aside, Senator.

SENATOR SKELOS: If we could take it up noncontroversial, then.

ACTING PRESIDENT MARCELLINO: The Secretary will read, please, Calendar

Number 526.

THE SECRETARY: Calendar Number 526, by Senator Padavan, Senate Print 67, an act to amend the Penal Law, in relation to possession of gambling devices.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of November.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos, that does end the noncontroversial reading of the calendar.

SENATOR SKELOS: Thank you. If we could return to reports of standing committees, for the report of the Finance Committee.

ACTING PRESIDENT MARCELLINO: The Secretary will read the report of the Finance Committee.

THE SECRETARY: Senator O. Johnson, from the Committee on Finance, reports the following bill direct to third reading:

Senate Print 7066, by Senator Alesi, an act in relation to redistributing 2007 bond volume allocations.

ACTING PRESIDENT MARCELLINO: Without objection, direct to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Senate 7066, Calendar Number 561, noncontroversial.

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number 561, by Senator Alesi, Senate Print 7066, an act in relation to redistributing bond volume allocations.

ACTING PRESIDENT MARCELLINO: Read the last section.

THE SECRETARY: Section 17. This act shall take effect immediately.

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT MARCELLINO: No, Senator, the desk is clean.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until Wednesday, March 19th, at 11 a.m.

ACTING PRESIDENT MARCELLINO: We're going to lay Senator LaValle's bill, Senate 3432A, aside for the day.

On motion, the Senate stands adjourned until tomorrow, Wednesday, at 11:00 a.m.

(Whereupon, at 3:28 p.m., the Senate adjourned.)