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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

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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

1 Senators a great power and a great  
2 responsibility.

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

6 Amen.

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

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

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

17 Presentation of pensions.

18 Messages from the Assembly.

19 Messages from the Governor.

20 Reports of standing committees.

21 Reports of select committees.

22 Communications and reports from  
23 state officers.

24 Motions and resolutions.

25 Senator Fuschillo.

1                   SENATOR FUSCHILLO:     Thank you,  
2     Mr. President.

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

8                   ACTING PRESIDENT MARCELLINO:     So  
9     ordered.

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

16                  ACTING PRESIDENT MARCELLINO:     So  
17     ordered.

18                  SENATOR FUSCHILLO:     Thank you,  
19     Mr. President.

20                  ACTING PRESIDENT MARCELLINO:  
21     Senator Duane.

22                  SENATOR DUANE:         Thank you,  
23     Mr. President.

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

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

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

9 Thank you, Mr. President.

10 ACTING PRESIDENT MARCELLINO: So  
11 ordered.

12 Senator Skelos.

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

16 ACTING PRESIDENT MARCELLINO: The  
17 Secretary will read the substitutions.

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

23 ACTING PRESIDENT MARCELLINO:  
24 Substitution ordered.

25 Senator Skelos.

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

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

8                   (Response of "Aye.")

9                   ACTING PRESIDENT MARCELLINO:  
10    Opposed, nay.

11                   (No response.)

12                   ACTING PRESIDENT MARCELLINO:     The  
13    Resolution Calendar is adopted.

14                   Senator Skelos.

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

20                   ACTING PRESIDENT MARCELLINO:     The  
21    Secretary will read.

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

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

4 ACTING PRESIDENT MARCELLINO:  
5 Senator Rath, on the resolution.

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

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

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

22 Thank you.

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

1 (Response of "Aye.")

2 ACTING PRESIDENT MARCELLINO:

3 Opposed, nay.

4 (No response.)

5 ACTING PRESIDENT MARCELLINO: The  
6 resolution is adopted.

7 Senator Skelos.

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

12 ACTING PRESIDENT MARCELLINO:

13 There will be an immediate meeting of the  
14 Finance Committee in Room 332.

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

17 ACTING PRESIDENT MARCELLINO: The  
18 Senate will stand at ease.

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

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

23 ACTING PRESIDENT MARCELLINO:

24 Senator Skelos.

25 SENATOR SKELOS: Mr. President,

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

3 ACTING PRESIDENT MARCELLINO:

4 Yes, we can, sir.

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

9 Senator Farley.

10 SENATOR FARLEY: Yeah, if I may,  
11 I was asked to announce that this is  
12 University of Albany Day. Four hundred alumni  
13 will be down in the Albany Room from 4:30 to  
14 6:30. There are a number of members that are  
15 graduates of the University of Albany.

16 I made the announcement. Thank  
17 you.

18 ACTING PRESIDENT MARCELLINO:

19 Thank you. And we can move now to the  
20 noncontroversial reading of the calendar.

21 The Secretary will read.

22 THE SECRETARY: Calendar Number  
23 50, by Senator Maziarz, Senate Print 6237A, an  
24 act to amend the Labor Law, in relation to  
25 directing.

1                   ACTING PRESIDENT MARCELLINO:

2           Read the last section.

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

5                   ACTING PRESIDENT MARCELLINO:

6           Call the roll.

7                   (The Secretary called the roll.)

8                   THE SECRETARY:       Ayes, 55.

9                   ACTING PRESIDENT MARCELLINO:       The  
10          bill is passed.

11                   THE SECRETARY:       Calendar Number  
12          280, by Senator Trunzo, Senate Print 2399B, an  
13          act to amend the Public Health Law, in  
14          relation to authorizing the Commissioner of  
15          Health.

16                   ACTING PRESIDENT MARCELLINO:

17          Read the last section.

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

20                   ACTING PRESIDENT MARCELLINO:

21          Call the roll.

22                   (The Secretary called the roll.)

23                   THE SECRETARY:       Ayes, 53.

24                   ACTING PRESIDENT MARCELLINO:       The  
25          bill is passed.

1                   THE SECRETARY:     Calendar Number  
2                   283, by Senator Maltese, Senate Print 6860, an  
3                   act to amend the Labor Law, in relation to  
4                   labeling.

5                   ACTING PRESIDENT MARCELLINO:  
6                   Read the last section.

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

9                   ACTING PRESIDENT MARCELLINO:  
10                  Call the roll.

11                  (The Secretary called the roll.)

12                  THE SECRETARY:     Ayes, 53.

13                  ACTING PRESIDENT MARCELLINO:     The  
14                  bill is passed.

15                  THE SECRETARY:     Calendar Number  
16                  324, by Senator Volker, Senate Print 6701A, an  
17                  act to amend the Penal Law and others, in  
18                  relation to the unlawful sale of alcohol.

19                  ACTING PRESIDENT MARCELLINO:  
20                  Read the last section.

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

23                  ACTING PRESIDENT MARCELLINO:  
24                  Call the roll.

25                  (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 53.

2 ACTING PRESIDENT MARCELLINO: The  
3 bill is passed.

4 THE SECRETARY: Calendar Number  
5 359, by Senator DeFrancisco, Senate Print  
6 6844, an act to amend the Executive Law, in  
7 relation to establishing Military Spouse Day.

8 ACTING PRESIDENT MARCELLINO:  
9 Read the last section.

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

12 ACTING PRESIDENT MARCELLINO:  
13 Call the roll.

14 (The Secretary called the roll.)

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

17 SENATOR DUANE: Thank you,  
18 Mr. President.

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

1           afforded the ability to have a spouse in our  
2           state.

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

7                        Thank you, Mr. President.

8                        ACTING PRESIDENT MARCELLINO:

9           Thank you, Senator.

10                       Announce the results, please.

11                       THE SECRETARY:     Ayes, 54.

12                       ACTING PRESIDENT MARCELLINO:     The  
13           bill is passed.

14                       THE SECRETARY:     Calendar Number  
15           361, by Senator Maltese, Senate Print 6863, an  
16           act to amend the Labor Law, in relation to  
17           transportation of goods.

18                       ACTING PRESIDENT MARCELLINO:

19           Read the last section.

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

22                       ACTING PRESIDENT MARCELLINO:

23           Call the roll.

24                       (The Secretary called the roll.)

25                       THE SECRETARY:     Ayes, 54.

1                   ACTING PRESIDENT MARCELLINO:     The  
2     bill is passed.

3                   THE SECRETARY:     Calendar Number  
4     422, by Senator Marcellino, Senate Print  
5     3194A, an act to amend the Penal Law, in  
6     relation to increasing penalties.

7                   ACTING PRESIDENT MARCELLINO:  
8     Read the last section.

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

12                  ACTING PRESIDENT MARCELLINO:  
13    Call the roll.

14                  (The Secretary called the roll.)

15                  THE SECRETARY:     Ayes, 54.

16                  ACTING PRESIDENT MARCELLINO:     The  
17    bill is passed.

18                  THE SECRETARY:     Calendar Number  
19    424, by Senator LaValle, Senate Print 3432A,  
20    an act to amend the Penal Law and the  
21    Correction Law --

22                  SENATOR SKELOS:     Lay it aside,  
23    please.

24                  ACTING PRESIDENT MARCELLINO:     Lay  
25    the bill aside.

1 THE SECRETARY: Calendar Number  
2 450, by Senator Saland, Senate Print 5669A, an  
3 act to amend the Education Law, in relation to  
4 child abuse reporting requirements.

5 ACTING PRESIDENT MARCELLINO:  
6 Read the last section.

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

9 ACTING PRESIDENT MARCELLINO:  
10 Call the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 55.

13 ACTING PRESIDENT MARCELLINO: The  
14 bill is passed.

15 THE SECRETARY: Calendar Number  
16 452, by Senator Farley, Senate Print 6452, an  
17 act in relation to validating certain acts.

18 ACTING PRESIDENT MARCELLINO:  
19 Read the last section.

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

22 ACTING PRESIDENT MARCELLINO:  
23 Call the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 55.

1                   ACTING PRESIDENT MARCELLINO:     The  
2     bill is passed.

3                   THE SECRETARY:     Calendar Number  
4     504, by Senator Young, Senate Print 391, an  
5     act to amend the Vehicle and Traffic Law, in  
6     relation to the definition of "drug."

7                   ACTING PRESIDENT MARCELLINO:  
8     Read the last section.

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

11                  ACTING PRESIDENT MARCELLINO:  
12    Call the roll.

13                  (The Secretary called the roll.)

14                  THE SECRETARY:     Ayes, 55.

15                  ACTING PRESIDENT MARCELLINO:     The  
16    bill is passed.

17                  THE SECRETARY:     Calendar Number  
18    511, by Senator DeFrancisco, Senate Print  
19    1823, an act to amend the Navigation Law, in  
20    relation to the operation of a vessel  
21    recklessly.

22                  ACTING PRESIDENT MARCELLINO:  
23    Read the last section.

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

1                   ACTING PRESIDENT MARCELLINO:

2           Call the roll.

3                   (The Secretary called the roll.)

4                   THE SECRETARY:     Ayes, 55.

5                   ACTING PRESIDENT MARCELLINO:     The  
6           bill is passed.

7                   THE SECRETARY:     Calendar Number  
8           517, by Senator Little, Senate Print 4241, an  
9           act to amend the Navigation Law, in relation  
10          to chemical testing.

11                   ACTING PRESIDENT MARCELLINO:

12          Read the last section.

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

15                   ACTING PRESIDENT MARCELLINO:

16          Call the roll.

17                   (The Secretary called the roll.)

18                   THE SECRETARY:     Ayes, 55.

19                   ACTING PRESIDENT MARCELLINO:     The  
20          bill is passed.

21                   THE SECRETARY:     Calendar Number  
22          526, by Senator Padavan, Senate Print 67, an  
23          act to amend the Penal Law, in relation to  
24          possession of gambling devices.

25                   ACTING PRESIDENT MARCELLINO:

1 Read the last section.

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

4 SENATOR ADAMS: Lay it aside.

5 ACTING PRESIDENT MARCELLINO: Lay  
6 the bill aside.

7 THE SECRETARY: Calendar Number  
8 531, by Senator Maziarz, Senate Print 253A, an  
9 act to amend the Penal Law, in relation to  
10 killing or injuring a police animal.

11 ACTING PRESIDENT MARCELLINO:  
12 Read the last section.

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

16 ACTING PRESIDENT MARCELLINO:  
17 Call the roll.

18 (The Secretary called the roll.)

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

22 ACTING PRESIDENT MARCELLINO: The  
23 bill is passed.

24 THE SECRETARY: Calendar Number  
25 533, by Senator Skelos, Senate Print 431, an

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

3 ACTING PRESIDENT MARCELLINO:  
4 Read the last section.

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

8 ACTING PRESIDENT MARCELLINO:  
9 Call the roll.

10 (The Secretary called the roll.)

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

14 ACTING PRESIDENT MARCELLINO: The  
15 bill is passed.

16 THE SECRETARY: Calendar Number  
17 540, by Senator Fuschillo, Senate Print 1532,  
18 an act to amend the Penal Law, in relation to  
19 increasing penalties.

20 ACTING PRESIDENT MARCELLINO:  
21 Read the last section.

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

25 ACTING PRESIDENT MARCELLINO:

1 Call the roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes, 56.

4 ACTING PRESIDENT MARCELLINO: The  
5 bill is passed.

6 THE SECRETARY: Calendar Number  
7 550, by Senator Flanagan, Senate Print 4398A,  
8 an act to amend the Penal Law, in relation to  
9 establishing home invasion robbery offenses.

10 ACTING PRESIDENT MARCELLINO:  
11 Read the last section.

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

15 ACTING PRESIDENT MARCELLINO:  
16 Call the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 56.

19 ACTING PRESIDENT MARCELLINO: The  
20 bill is passed.

21 THE SECRETARY: Calendar Number  
22 554, substituted earlier today by Member of  
23 the Assembly Silver, Assembly Print Number  
24 9818, an act to amend the Penal Law, in  
25 relation to including.

1                   ACTING PRESIDENT MARCELLINO:

2           Read the last section.

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

5                   ACTING PRESIDENT MARCELLINO:

6           Call the roll.

7                   (The Secretary called the roll.)

8                   THE SECRETARY:       Ayes, 56.

9                   ACTING PRESIDENT MARCELLINO:       The  
10          bill is passed.

11                   Senator Skelos, that --

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

16                   ACTING PRESIDENT MARCELLINO:

17          Calendar Number 526 was laid aside at the  
18          request of Senator Adams.

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

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

24                   ACTING PRESIDENT MARCELLINO:

25          The Secretary will read, please, Calendar

1 Number 526.

2 THE SECRETARY: Calendar Number  
3 526, by Senator Padavan, Senate Print 67, an  
4 act to amend the Penal Law, in relation to  
5 possession of gambling devices.

6 ACTING PRESIDENT MARCELLINO:  
7 Read the last section.

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

11 ACTING PRESIDENT MARCELLINO:  
12 Call the roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes, 56.

15 ACTING PRESIDENT MARCELLINO: The  
16 bill is passed.

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

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

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

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

5                   Senate Print 7066, by Senator  
6     Alesi, an act in relation to redistributing  
7     2007 bond volume allocations.

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

10                  Senator Skelos.

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

14                  ACTING PRESIDENT MARCELLINO:     The  
15     Secretary will read.

16                  THE SECRETARY:     Calendar Number  
17     561, by Senator Alesi, Senate Print 7066, an  
18     act in relation to redistributing bond volume  
19     allocations.

20                  ACTING PRESIDENT MARCELLINO:  
21     Read the last section.

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

24                  ACTING PRESIDENT MARCELLINO:  
25     Call the roll.

1 (The Secretary called the roll.)

2 THE SECRETARY: Ayes, 57.

3 ACTING PRESIDENT MARCELLINO: The  
4 bill is passed.

5 Senator Skelos.

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

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

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

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

17 On motion, the Senate stands  
18 adjourned until tomorrow, Wednesday, at  
19 11:00 a.m.

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

22

23

24

25