NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 20, 2005

11:06 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, April 19, the Senate met pursuant to adjournment. The Journal of Monday, April 18, 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 Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 4, Senator Larkin moves to discharge, from the Committee on Cities, Assembly Bill Number 5939 and substitute it for the identical Senate Bill Number 2474, First Report Calendar 587.

On page 6, Senator Alesi moves to discharge, from the Committee on Finance, Assembly Bill Number 3981 and substitute it for the identical Senate Bill Number 2781, First Report Calendar 606.

And on page 6, Senator Trunzo moves to discharge, from the Committee on Finance, Assembly Bill Number 4762 and substitute it

for the identical Senate Bill Number 3155, First Report Calendar 608.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a Resolution 1541 at the desk, by Senator Sampson. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Sampson, Legislative Resolution Number 1541, commending the Brooklyn Section of the National Council of Negro Women and honoring the young achievers who will be recognized at its 20th Annual Harambee Celebration.

THE PRESIDENT: On the resolution, all in favor 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, there's a resolution at the desk, Resolution Number 1542, by Senator Hassell-Thompson. Could we have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Hassell-Thompson, Legislative Resolution Number 1542, commemorating the 40th Anniversary of the Voting Rights Act of 1965.

THE PRESIDENT: On the resolution, all in favor 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 123, by Senator Robach, Senate Print 2165A, an act to amend the Retirement and Social Security Law, in relation to extension.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 369, by Senator Seward, Senate Print 81B, an act in relation to granting Shirley J. Edwards retirement service credit.

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

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 SECRETARY: Ayes, 47.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 380, by Senator Morahan, Senate Print 2044A, an act to authorize the Town of Clarkstown, County of Rockland.

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 486, by Senator Marcellino, Senate Print 2855, an act to amend the Vehicle and Traffic Law, in relation to the number of prior suspensions.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 501, by Senator Wright, Senate Print 2535, an act to amend the Tax Law, in relation to the imposition of sales and compensating use taxes.

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, 49.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 504, by Senator Saland, Senate Print 2596, an act to amend the Tax Law, in relation to sales and compensating use tax.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 513, by Senator Winner, Senate Print 3270, an act to amend the Tax Law, in relation to the mortgage recording tax.

THE PRESIDENT: There is a local fiscal impact note at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 1. Senator Valesky recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

517, by Senator Libous, Senate Print --

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

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

THE SECRETARY: Calendar Number 522, by Senator Nozzolio, Senate Print 1975, an act to amend the Real Property Tax Law, in relation to exempting.

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, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 532, by Senator Trunzo, Senate Print 432, an act to amend the Education Law, in relation to payment of tuition and fees.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the first of August.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 555, by Senator Padavan, Senate Print 3971, an act to amend the General Municipal Law and the Retirement and Social Security Law, in relation to increasing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect July 1, 2005.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

SENATOR SKELOS: Thank you, Madam President.

Is there any housekeeping at the

desk?

THE PRESIDENT: Yes, there is, Senator.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On behalf of Senator Flanagan, I wish to call up Calendar Number 426, Assembly Print Number 1221.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 426, by Member of the Assembly Tokasz, Assembly Print Number 1221, an act to amend the Election Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which this Assembly bill was substituted for Senate Print Number 2914 on April 12th.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

SENATOR FUSCHILLO: I now move that Assembly Bill Number 1221 be recommitted

to the Committee on Elections.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Thank you. And that the Senate bill be restored to the order of Third Reading Calendar.

THE PRESIDENT: So ordered, Senator.

SENATOR FUSCHILLO: I now offer the following amendments.

THE PRESIDENT: The amendments are received.

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, would you please recognize Senator Valesky.

THE PRESIDENT: Senator Valesky.

SENATOR VALESKY: Madam President, I have a motion at the desk. I would like to have it called up at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Print 3049, by Senator Valesky, Concurrent Resolution of the Senate and Assembly proposing amendments to Article 9 of the

constitution.

THE PRESIDENT: Senator Valesky.

SENATOR VALESKY: Madam President, thank you.

We have heard, no doubt time and time again, from our local government officials the impact that state-imposed unfunded mandates have on those local governments, often forcing our counties, cities, villages and other local governments to cut services or raise taxes to cover additional costs.

This particular bill, Senate Bill 3049, would amend the New York State Constitution to prohibit the state from imposing unfunded mandates. And it would make compliance with new state mandates, once determined to be unfunded, voluntary for local governments, school districts, and others.

It would create a council on local mandates appointed by the Governor and legislative leaders.

The bill does include some exceptions; for example, when it's necessary to comply with federal law or, obviously, any

request from a locality through a home-rule message process.

I think this is very, very important for our localities across the State of New York and in turn for our taxpayers, and I urge the members of the Senate to support this motion.

Thank you very much, Madam President.

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

THE SECRETARY: Those Senators in agreement are Breslin, Brown, Diaz, Dilan, Duane, Gonzalez, Klein, L. Krueger, C. Kruger, Montgomery, Paterson, Sabini, Schneiderman, Serrano, A. Smith, M. Smith, Stachowski, Valesky. Also Senator Stavisky. Also Senator Savino. Also Senator Oppenheimer. Also Senator Andrews. Also Senator Onorato.

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, May 2nd, at 3:00 p.m., intervening days being legislative days, and wish everybody a healthy and happy break.

THE PRESIDENT: On motion, the Senate now stands adjourned until Monday, May 2nd, 3:00 p.m., intervening days being legislative days.

Have a great break.

(Whereupon, at 11:18 a.m., the Senate adjourned.)