NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 23, 2007

3:15 p.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I would ask all present to rise and recite with me the Pledge of Allegiance.

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

THE PRESIDENT: Our invocation today will be delivered by Father Peter G. Young, of Mother Theresa Community right here in Albany.

REVEREND YOUNG: Thank you. Thank you. Let us pray.

Dear God, the wisdom that You have is beyond imagining, and Your goodness is boundless. Your treasures of course You have given to us, O Lord, unfailingly.

You have enlightened our minds to open up new and better means of sharing with each other here in this Senate chamber with our constituencies, for information, ideas and aspirations. The discoveries of technology can be of great assistance to our citizens of New York State, that they can bring them here and get Your help in times of need for our

needed resources and our quality of life.

We pray that You will give grace to these Senator for their accomplishments.

Amen.

THE PRESIDENT: Thank you, Father Young.

The reading of the Journal.

THE SECRETARY: In Senate, Sunday, April 22, the Senate met pursuant to adjournment. The Journal of Saturday, April 21, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: The Journal stands approved as read.

Now to the order of business.

Presentation of petitions.

Senator LaValle.

SENATOR LaVALLE: I was waiting for motions and resolutions, Mr. President.

THE PRESIDENT: We'll continue with the order of business.

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.

And now, Senator LaValle, motions and resolutions.

SENATOR LaVALLE: Thank you, Mr. President.

Would you place a sponsor's star on Calendar Number 425, Senate Bill Number 3065.

THE PRESIDENT: Senate Bill Number 3065, a star has been placed by the sponsor. So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On page number 26 I offer the following amendments to Calendar Number 338, Senate Print Number 2969, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: Thank you, Senator Fuschillo. The amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: On behalf of

Senator Marcellino, on page number 18 I offer the following amendments to Calendar Number 106, Senate Print Number 632, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments to Calendar Number 106 are received and adopted, the bill will likewise retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: On behalf of Senator Trunzo, on page number 31 I offer the following amendments to Calendar Number 433, Senate Print Number 2399, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: Calendar Number 433, the amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: And, Mr. President, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Print Number 3991, Senate Print Number 3992, and Senate

Print Number 4384.

THE PRESIDENT: So ordered.

Senator Skelos.

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

THE PRESIDENT: The Secretary will conduct the noncontroversial reading of the calendar.

THE SECRETARY: Calendar Number 43, by Senator DeFrancisco, Senate Print 788, an act to amend the Estates, Powers and Trusts Law, in relation to disposition of property.

THE PRESIDENT: The Secretary will read the last section.

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

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE PRESIDENT: And the Secretary will announce the results.

THE SECRETARY: Ayes, 38.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 101, by Senator LaValle, Senate Print 2038, an act to amend the Workers' Compensation Law, in relation to including Lyme disease.

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, 38.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 193, by Senator Smith, Senate Print 1862, an act to amend the Penal Law, in relation to facilitating a sexual performance by a child.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38. Nays,

1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 194, by Senator Volker, Senate Print 1977A, an act to amend the Criminal Procedure Law, in relation to receiving of business records.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 195, by Senator Volker, Senate Print 2010, an act to amend the Criminal Procedure Law, in relation to police officer --

SENATOR SKELOS: If we could lay that aside temporarily.

THE PRESIDENT: The bill is laid

aside temporarily.

THE SECRETARY: Calendar Number 341, by Senator Larkin, Senate Print 533, an act to amend the Business Corporation Law, in relation to unauthorized and misleading electronic mail.

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

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

THE SECRETARY: Calendar Number 354, by Senator Morahan, Senate Print 1468, an act relating to school bus travel on the Palisades Parkway.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

388, by Senator Nozzolio, Senate Print 710, an act to amend the Real Property Tax Law, in relation to the veteran's alternative exemption.

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, 40.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 391, by Senator Rath, Senate Print 2966, an act to amend the Real Property Tax Law, in relation to veteran eligibility.

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, 42.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 429, by Senator Maltese, Senate Print 3003, an act to amend the Education Law, in relation to student loans for persons in military service.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act --

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

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

THE SECRETARY: Calendar Number 442, by Senator Larkin, Senate Print 1882, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to free passes, cards or badges.

THE PRESIDENT: 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, 42.

THE PRESIDENT: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could at this time return to Calendar Number 195, which was temporarily laid aside.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 195, by Senator Volker, Senate Print 2010, an act to amend the Criminal Procedure Law, in relation to police officer statements.

SENATOR DUANE: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could ring the bells now and go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will ring the bell and shortly thereafter will conduct the controversial reading of the calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could lay aside Calendar Number 195 for the day.

THE PRESIDENT: On Calendar Number 195, the bill is laid aside for the day.

Senator Skelos.

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

THE PRESIDENT: There is no further business, Senator.

SENATOR SKELOS: Would you please recognize Senator Valesky.

THE PRESIDENT: Senator Valesky.

SENATOR VALESKY: Mr. President, I have a motion at the desk. I ask that it be called up at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Valesky, Senate Print 2201, Concurrent Resolution of the Senate and Assembly proposing amendments to Article 9 of the Constitution.

THE PRESIDENT: On the motion,

Senator Valesky.

SENATOR VALESKY: Thank you, Mr. President.

This motion would move Senate Bill 2201 to the floor, and it deals with a prohibition on unfunded mandates.

I'm sure that all of the members in the chamber hear regularly from local government officials about the impact of actions taken here in Albany on their local governments and how that hamstrings their ability to carry out services and how it often forces them to raise property and sales taxes and other means of revenue.

The bill that is before us, or the motion that would move the bill before us to the floor, proposes amending the New York State Constitution to prohibit unfunded mandates within reason. It is carefully crafted to provide for exceptions where necessary.

It also would create, for the first time, a council on local mandates. The council would be empowered to resolve any disputes that would be brought by local

governments about whether a particular law is considered an unfunded mandate or not.

I think that this would go a long way toward assuring our local governments and, in turn, our constituents that we here in Albany are serious about controlling costs, making sure that we are taking the actions necessary to provide services but not hampering our local governments and providing undue hardship on those localities across the state.

So, Mr. President, I encourage all of my colleagues to support the motion.

Thank you.

THE PRESIDENT: The question is on the motion to petition. All those in favor please raise their hands.

THE SECRETARY: Those recorded in agreement are Senators Adams, Breslin, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, C. Johnson, Klein, L. Krueger, C. Kruger, Montgomery, Oppenheimer, Parker, Perkins, Sabini, Sampson, Schneiderman, Serrano, Smith, Savino, Stachowski, Stavisky, Stewart-Cousins, Thompson and Valesky.

THE PRESIDENT: The motion is not agreed to.

"The motion is not agreed to" is a sentence that ends with a preposition that will offend my 7th-grade English teacher.

Senator Skelos.

SENATOR SKELOS: If you could recognize Senator Klein.

THE PRESIDENT: Senator Klein.

SENATOR KLEIN: Thank you, Senator Skelos.

Mr. President, there's a motion at the desk, and I would like to have the opportunity to speak on the said motion at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Klein, Senate Print 2257, an act to amend the Elder Law.

THE PRESIDENT: Senator Klein.

SENATOR KLEIN: This motion would raise the income eligibility for the EPIC program to $50,000 for an individual, from $35,000, and to $75,000 for a married couple,

an increase from $50,000.

I think we all know the success of the EPIC program in New York State. Sometimes we do get it right. And the EPIC program is a program that's lauded all over the state by senior citizens, healthcare advocates, as giving senior citizens the ability to save up to 80 percent on their prescription drugs.

I think everyone here understands that the price of prescription drugs is constantly getting higher and higher and making it more and more difficult for senior citizens to purchase prescription drugs. We all know, I think, unfortunately, the horror stories where sometimes seniors have to choose between buying food, paying rent, and their high-priced prescription drugs.

The beauty of the EPIC program is that it also can be used in conjunction with any other health plan, so it's a very, very effective program.

Years ago when we started the EPIC program, one of the problems I found when I was a member of the State Assembly is then the income level was very, very low. It used to

be $16,500 for an individual. Luckily, several years ago we raised it to $35,000. I think we still need to raise it higher. Although $50,000 may seem like a lot, if you're a senior citizen living on a fixed income and paying a lot of money for prescription drugs, that $50,000 doesn't go a long way.

The estimates that my office looked at in putting together this legislation, if we expand or increase the income eligibility, another 22,700 individuals in New York State would be eligible for the EPIC program. In my district, where I represent Bronx County and Westchester County, we're talking about another 600 individuals in the Bronx and probably another 2600 in Westchester County. So clearly this is something that we need to do.

And I think the time is now to start discussing this. I don't think everybody knows, but the HCRA program is about to sunset this year. The HCRA program is what's used to fund the EPIC program, based on cigarette taxes, based on our tobacco

settlement dollars.

So I'm hopeful, even if we don't pass this as legislation, it's something we can do when we sort of revamp or take another look at the HCRA program.

I urge all of my colleagues to vote yes on this motion.

Thank you, Mr. President.

THE PRESIDENT: On the motion to petition, all those in favor please indicate so by raising their hands.

THE SECRETARY: Those recorded in agreement are Senators Adams, Breslin, Diaz, Dilan, Duane, Gonzalez, Hassell-Thompson, Huntley, C. Johnson, Klein, L. Krueger, Montgomery, Oppenheimer, Parker, Perkins, Sabini, Sampson, Savino, Schneiderman, Serrano, Smith, Stachowski, Stavisky, Stewart-Cousins, Thompson and Valesky.

THE PRESIDENT: On the motion, there is no agreement.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business to come before the Senate, I move we stand adjourned until

Tuesday, April 24th, at 3:00 p.m.

THE PRESIDENT: The Senate will adjourn and will reconvene on Tuesday, April 24th, at 3:00 p.m.

Senate is adjourned.

(Whereupon, at 3:41 p.m., the Senate adjourned.)