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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

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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

1           needed resources and our quality of life.

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

4                       Amen.

5                       THE PRESIDENT:       Thank you, Father  
6 Young.

7                       The reading of the Journal.

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

13                      THE PRESIDENT:       The Journal  
14 stands approved as read.

15                      Now to the order of business.

16                      Presentation of petitions.

17                      Senator LaValle.

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

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

22                      Presentation of petitions.

23                      Messages from the Assembly.

24                      Messages from the Governor.

25                      Reports of standing committees.

1 Reports of select committees.

2 Communications and reports from  
3 state officers.

4 And now, Senator LaValle, motions  
5 and resolutions.

6 SENATOR LaVALLE: Thank you,  
7 Mr. President.

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

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

13 Senator Fuschillo.

14 SENATOR FUSCHILLO: Thank you,  
15 Mr. President.

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

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

25 SENATOR FUSCHILLO: On behalf of

1 Senator Marcellino, on page number 18 I offer  
2 the following amendments to Calendar Number  
3 106, Senate Print Number 632, and ask that  
4 said bill retain its place on Third Reading  
5 Calendar.

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

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

16 THE PRESIDENT: Calendar Number  
17 433, the amendments are received and adopted.  
18 The bill will retain its place on the Third  
19 Reading Calendar.

20 SENATOR FUSCHILLO: And,  
21 Mr. President, I move that the following bills  
22 be discharged from their respective committees  
23 and be recommitted with instructions to strike  
24 the enacting clause: Senate Print Number  
25 3991, Senate Print Number 3992, and Senate

1 Print Number 4384.

2 THE PRESIDENT: So ordered.

3 Senator Skelos.

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

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

10 THE SECRETARY: Calendar Number  
11 43, by Senator DeFrancisco, Senate Print 788,  
12 an act to amend the Estates, Powers and Trusts  
13 Law, in relation to disposition of property.

14 THE PRESIDENT: The Secretary  
15 will read the last section.

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

18 THE PRESIDENT: The Secretary  
19 will call the roll.

20 (The Secretary called the roll.)

21 THE PRESIDENT: And the Secretary  
22 will announce the results.

23 THE SECRETARY: Ayes, 38.

24 THE PRESIDENT: The bill is  
25 passed.

1                   THE SECRETARY:     Calendar Number  
2     101, by Senator LaValle, Senate Print 2038, an  
3     act to amend the Workers' Compensation Law, in  
4     relation to including Lyme disease.

5                   THE PRESIDENT:     Read the last  
6     section.

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

9                   THE PRESIDENT:     Call the roll.  
10     (The Secretary called the roll.)

11                   THE SECRETARY:     Ayes, 38.

12                   THE PRESIDENT:     The bill is  
13     passed.

14                   THE SECRETARY:     Calendar Number  
15     193, by Senator Smith, Senate Print 1862, an  
16     act to amend the Penal Law, in relation to  
17     facilitating a sexual performance by a child.

18                   THE PRESIDENT:     Read the last  
19     section.

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

23                   THE PRESIDENT:     Call the roll.  
24     (The Secretary called the roll.)

25                   THE SECRETARY:     Ayes, 38. Nays,

1 1. Senator Duane recorded in the negative.

2 THE PRESIDENT: The bill is  
3 passed.

4 THE SECRETARY: Calendar Number  
5 194, by Senator Volker, Senate Print 1977A, an  
6 act to amend the Criminal Procedure Law, in  
7 relation to receiving of business records.

8 THE PRESIDENT: Read the last  
9 section.

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

13 THE PRESIDENT: Call the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 38. Nays,

16 1. Senator Duane recorded in the negative.

17 THE PRESIDENT: The bill is  
18 passed.

19 THE SECRETARY: Calendar Number  
20 195, by Senator Volker, Senate Print 2010, an  
21 act to amend the Criminal Procedure Law, in  
22 relation to police officer --

23 SENATOR SKELOS: If we could lay  
24 that aside temporarily.

25 THE PRESIDENT: The bill is laid

1       aside temporarily.

2                   THE SECRETARY:       Calendar Number  
3       341, by Senator Larkin, Senate Print 533, an  
4       act to amend the Business Corporation Law, in  
5       relation to unauthorized and misleading  
6       electronic mail.

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

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

11                   THE SECRETARY:       Calendar Number  
12       354, by Senator Morahan, Senate Print 1468, an  
13       act relating to school bus travel on the  
14       Palisades Parkway.

15                   THE PRESIDENT:       Read the last  
16       section.

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

19                   THE PRESIDENT:       Call the roll.  
20       (The Secretary called the roll.)

21                   THE PRESIDENT:       Results.

22                   THE SECRETARY:       Ayes, 40.

23                   THE PRESIDENT:       The bill is  
24       passed.

25                   THE SECRETARY:       Calendar Number

1 388, by Senator Nozzolio, Senate Print 710, an  
2 act to amend the Real Property Tax Law, in  
3 relation to the veteran's alternative  
4 exemption.

5 THE PRESIDENT: Read the last  
6 section.

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

9 THE PRESIDENT: Call the roll.  
10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 40.

12 THE PRESIDENT: The bill is  
13 passed.

14 THE SECRETARY: Calendar Number  
15 391, by Senator Rath, Senate Print 2966, an  
16 act to amend the Real Property Tax Law, in  
17 relation to veteran eligibility.

18 THE PRESIDENT: Read the last  
19 section.

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

22 THE PRESIDENT: Call the roll.  
23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 42.

25 THE PRESIDENT: The bill is

1 passed.

2 THE SECRETARY: Calendar Number  
3 429, by Senator Maltese, Senate Print 3003, an  
4 act to amend the Education Law, in relation to  
5 student loans for persons in military service.

6 THE PRESIDENT: Read the last  
7 section.

8 THE SECRETARY: Section 2. This  
9 act --

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

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

14 THE SECRETARY: Calendar Number  
15 442, by Senator Larkin, Senate Print 1882, an  
16 act to amend the Racing, Pari-Mutuel Wagering  
17 and Breeding Law, in relation to free passes,  
18 cards or badges.

19 THE PRESIDENT: Read the last  
20 section.

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

23 THE PRESIDENT: Call the roll.

24 (The Secretary called the roll.)

25 THE SECRETARY: Ayes, 42.

1                   THE PRESIDENT:     The bill is  
2     passed.

3                   Senator Skelos.

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

7                   THE PRESIDENT:     The Secretary  
8     will read.

9                   THE SECRETARY:     Calendar Number  
10    195, by Senator Volker, Senate Print 2010, an  
11    act to amend the Criminal Procedure Law, in  
12    relation to police officer statements.

13                  SENATOR DUANE:     Lay it aside,  
14    please.

15                  THE PRESIDENT:     The bill is laid  
16    aside.

17                  Senator Skelos.

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

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

25                  Senator Skelos.

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

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

7                   Senator Skelos.

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

10                  THE PRESIDENT:     There is no  
11     further business, Senator.

12                  SENATOR SKELOS:     Would you please  
13     recognize Senator Valesky.

14                  THE PRESIDENT:     Senator Valesky.

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

18                  THE PRESIDENT:     The Secretary  
19     will read.

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

25                  THE PRESIDENT:     On the motion,

1 Senator Valesky.

2 SENATOR VALESKY: Thank you,  
3 Mr. President.

4 This motion would move Senate Bill  
5 2201 to the floor, and it deals with a  
6 prohibition on unfunded mandates.

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

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

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

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

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

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

14 Thank you.

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

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

1                   THE PRESIDENT:     The motion is not  
2                   agreed to.

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

6                   Senator Skelos.

7                   SENATOR SKELOS:     If you could  
8                   recognize Senator Klein.

9                   THE PRESIDENT:     Senator Klein.

10                  SENATOR KLEIN:     Thank you,  
11                  Senator Skelos.

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

16                  THE PRESIDENT:     The Secretary  
17                  will read.

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

21                  THE PRESIDENT:     Senator Klein.

22                  SENATOR KLEIN:     This motion would  
23                  raise the income eligibility for the EPIC  
24                  program to \$50,000 for an individual, from  
25                  \$35,000, and to \$75,000 for a married couple,

1 an increase from \$50,000.

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

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

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

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

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

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

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

1 settlement dollars.

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

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

8 Thank you, Mr. President.

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

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

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

22 Senator Skelos.

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

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

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

5 Senate is adjourned.

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

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