

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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8
9 ALBANY, NEW YORK

10 March 26, 2009

11 11:19 a.m.

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13
14 REGULAR SESSION

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18 SENATOR NEIL D. BRESLIN, Acting President

19 ANGELO J. APONTE, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT BRESLIN: The
3 Senate will please come to order.

4 I ask everyone to rise and recite
5 the Pledge of Allegiance.

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

8 ACTING PRESIDENT BRESLIN: The
9 invocation today will be delivered by Father
10 Peter Young, of Mother Theresa Church in
11 Albany, New York.

12 REVEREND YOUNG: Thank you.

13 Let us pray.

14 Senators, as we assemble today, we
15 know that we've heard the adage "March comes
16 in like a lion and goes out like a lamb." As
17 we think of the budget session, may we again
18 ask God to pray for us.

19 Almighty and Eternal God, You have
20 revealed Your glory with justice that comes to
21 our Senators through Your authority with
22 prayer, that Your laws are enacted and
23 judgments are decreed, with our citizens
24 benefiting from the dedication of our session

1 today.

2 Amen.

3 ACTING PRESIDENT BRESLIN: Thank
4 you, Father Young.

5 The reading of the Journal.

6 The Secretary will read.

7 THE SECRETARY: In Senate,
8 Wednesday, March 25, the Senate met pursuant
9 to adjournment. The Journal of Tuesday,
10 March 24, was read and approved. On motion,
11 Senate adjourned.

12 ACTING PRESIDENT BRESLIN:
13 Without objection, the Journal stands approved
14 as read.

15 Presentation of petitions.

16 Messages from the Assembly.

17 Messages from the Governor.

18 Reports of standing committees.

19 Reports of select committees.

20 Communications and reports from
21 state officers.

22 Motions and resolutions.

23 Senator Klein.

24 SENATOR KLEIN: Mr. President, I

1 believe Senator Huntley and Senator Little
2 have a resolution at the desk. I ask that the
3 resolution be read in its entirety and move
4 for its immediate adoption and start off with
5 Senator Little to speak on the resolution.

6 ACTING PRESIDENT BRESLIN: The
7 Secretary will read.

8 THE SECRETARY: By Senators
9 Huntley and Little, Legislative Resolution
10 Number 1032, expressing sincerest, heartfelt
11 condolences to the victims of the devastating
12 fire that took place at Riverview Individual
13 Residential Alternatives (IRA) group home, and
14 applauding all those who acted astutely and
15 heroically in the face of danger.

16 "WHEREAS, This Legislative Body
17 recognizes the tragedy of the devastating fire
18 that took place at the Riverview Individual
19 Residential Alternative (IRA) group home, and
20 the loss of life and damage that have been
21 sustained by the victims and their loved ones;
22 and

23 "WHEREAS, On Saturday, March 21,
24 2009, fire broke out at approximately

1 5:30 a.m. at Riverview IRA, a state-operated,
2 24-hour supervised group home located in
3 Wells, New York, in Hamilton County; and

4 "WHEREAS, This fatal tragedy
5 claimed the lives of four of the nine
6 developmentally disabled patients residing in
7 the home who were involved in the fire. The
8 four residents who perished include: Anthony
9 Vitti, Theresa Williams, Gloria Bonilla, and
10 Corey Desotelle; and

11 "WHEREAS, It is the sense of this
12 Legislative Body to recognize the noble
13 efforts of each and every staff member of both
14 the Riverview IRA and Sunmount Developmental
15 Disabilities Services Office (DDSO), all
16 emergency personnel, investigators, neighbors,
17 and community members, as well as Diana
18 Jones-Ritter, Commissioner of the Office of
19 Mental Retardation and Developmental
20 Disabilities (OMRDD), and Helene DeSanto,
21 director of Sunmount DDSO, who responded
22 quickly and valiantly, coming to the aid of
23 the residents; and

24 "WHEREAS, With a strong sense of

1 community, the outpouring of assistance and
2 caring from the Wells, Speculator, and
3 surrounding neighborhoods has been
4 exceptional. The people of this great state
5 have opened their homes and have donated food
6 and other necessities to those affected by
7 this heartbreaking, tragic event; and

8 "WHEREAS, On behalf of the people
9 of the State of New York, the members of this
10 Legislative Body offer their deepest
11 condolences to the families and friends of
12 those who died; now, therefore, be it

13 "RESOLVED, That this Legislative
14 Body pause in its deliberations to express
15 sincerest, heartfelt condolences to the
16 victims of the devastating fire that took
17 place at Riverview Individual Residential
18 Alternative (IRA) group home and to applaud
19 all those who acted astutely and heroically in
20 the face of danger; and be it further

21 "RESOLVED, That copies of this
22 resolution, suitably engrossed, be transmitted
23 to the families of Anthony Vitti, Theresa
24 Williams, Gloria Bonilla, and Corey

1 Desotelle."

2 ACTING PRESIDENT BRESLIN:

3 Senator Huntley.

4 SENATOR HUNTLEY: Thank you,
5 Mr. President.

6 I rise to give condolences to the
7 families of the ones who perished in the fire.

8 I also would like to commend
9 Commissioner Ritter for the job well done.
10 She called me that Saturday morning -- in
11 fact, I was shopping when she called me -- and
12 right away my whole day became just a day
13 where I was very upset, because I know that
14 fire is such a tragedy when it happens in any
15 household.

16 And I would also like to commend
17 Senator Little for being on the scene,
18 supporting the families, supporting the
19 commissioner, the rescue workers. I was very
20 happy to hear that she was there, and I just
21 think that we too owe her our gratitude and
22 thanks for being there in that community and
23 making things better.

24 So I would just like all of us just

1 to applaud for her.

2 (Applause.)

3 SENATOR HUNTLEY: Is that
4 applause? I mean, can we see a little
5 affection here? Hello?

6 (Applause.)

7 SENATOR HUNTLEY: Thank you.

8 This is an experience that no one
9 wants to be around or involved in. It's a
10 heart-wrenching tragedy. And to be standing
11 on the scene and to be helping and to be
12 looking, you can imagine what that does to a
13 person.

14 So again, I would like to thank
15 her, and I would like to say Commissioner
16 Ritter did a fabulous job. She keeps me
17 informed; she called me all day.

18 And again, let's just pray that
19 this does not happen again in any of our
20 state-run facilities.

21 Thank you so much.

22 ACTING PRESIDENT BRESLIN: Thank
23 you, Senator Huntley.

24 Senator Little.

1 SENATOR LITTLE: Thank you.

2 And thank you, Senator Huntley, for
3 your comments, but also thank you for this
4 resolution in sympathy to those who lost their
5 lives that day.

6 As was mentioned, this was a real,
7 real tragedy. The community of Wells,
8 New York, is located in Hamilton County.
9 Hamilton County is one of the largest
10 geographic counties in the state and the
11 smallest county in the state, having a
12 population of just over 5,000 people. So we
13 are really talking about a very small
14 community.

15 And within that community there
16 were three residential facilities --

17 ACTING PRESIDENT BRESLIN: Can we
18 have some quiet, please.

19 You may continue, Senator Little.

20 SENATOR LITTLE: Thank you.

21 There were three residential
22 facilities for the residents of Sunmount,
23 which is a huge mental retardation,
24 developmentally disabled facility located in

1 Tupper Lake.

2 This facility, when you got the
3 call that such a thing had happened and you
4 realize what a tragedy it was, I guess your
5 first instinct is that this is a home that
6 perhaps maybe they had done renovations to, or
7 an older home. This was a brand-new
8 residence. It was just built last spring; the
9 residents moved in June 1st. It was a
10 beautiful setting, and it was totally
11 destroyed by a very, very fast fire.

12 There were nine residents of this
13 facility; five were saved. There were two
14 supervisors who were on duty from 11:00 to
15 7:00 at night, and they worked very hard to
16 get as many residents out of the facility as
17 they could. Unfortunately and tragically,
18 four residents lost their lives. And
19 certainly my sympathy and feelings go out to
20 their families, as does everyone's.

21 The thing that you think about is
22 when you think of these people and these
23 residents, many of them have lived in a
24 developmental residence since they were born.

1 Many of them have lived there all of their
2 adult life. The director of the residence in
3 Wells, New York, said he knew these people for
4 21 years.

5 So our sympathies go out to their
6 family. But believe me, their extended family
7 is very, very large. Their extended family is
8 all of those who are employed by Sunmount, by
9 the developmental disability agency, all of
10 the people of Wells, New York -- because these
11 people were involved in the community, they
12 were out at a day treatment facility every
13 day, they attended events at the school and in
14 the community. Everyone in the community knew
15 these people, and they were part of the Wells
16 family.

17 It was very, very impressive that
18 day, despite the tragedy, to see the
19 outpouring of help and assistance. The local
20 fire companies from all around came that day.
21 Two firemen lived across the street when the
22 call came out. And frequently there are
23 smoke-detector fires and false alarms. They
24 put on their gear, looked out the window and

1 saw the flames, and went running across the
2 street to the house to help get the people out
3 of the house.

4 Everyone came to help.
5 Commissioner Diana Jones-Ritter flew in that
6 afternoon. The director of Sunmount, Helene
7 DeSanto, was on the scene when I got there
8 shortly after 1 o'clock. The pharmacies,
9 which were at least an hour away, had
10 everyone's medication there by 3 o'clock in
11 the afternoon so people did not go without
12 their medication. People in the community
13 were bringing food into the residence where
14 the survivors were taken. Clothing was being
15 dropped off, all kinds of things to help these
16 people and to help them.

17 So I guess when you have a tragedy
18 like that, you certainly thank God for the
19 help that comes together and the people and
20 the outpouring of love and compassion for the
21 people who endured this tragedy.

22 So I thank all of you for your
23 concern and for your sympathy. And, Senator
24 Huntley, thank you very much for doing this

1 resolution. It will be appreciated by the
2 families as well as all the workers of
3 Sunmount, OMRDD, and all of those who were
4 involved in this terrible, terrible tragedy.

5 Thank you.

6 ACTING PRESIDENT BRESLIN: Thank
7 you, Senator Little.

8 Are there any other Senators
9 wishing to be heard on this resolution?

10 The question is on the resolution.
11 All those in favor please signify by saying
12 aye.

13 (Response of "Aye.")

14 ACTING PRESIDENT BRESLIN:
15 Opposed, nay.

16 (No response.)

17 ACTING PRESIDENT BRESLIN: The
18 resolution is adopted.

19 At the request of the sponsor, the
20 resolution is open for multisponsorship by the
21 entire house. Any member wishing not to be a
22 multisponsor may so inform the desk.

23 Senator Klein.

24 SENATOR KLEIN: Mr. President, I

1 believe Senator Morahan has a resolution at
2 the desk. I ask that the title be read and
3 move for its immediate adoption and give
4 Senator Morahan the opportunity to speak on
5 the said resolution.

6 ACTING PRESIDENT BRESLIN: The
7 Secretary will read.

8 THE SECRETARY: By Senator
9 Morahan, Legislative Resolution Number 1034,
10 honoring Valley Cottage Library upon the
11 occasion of celebrating its 50th anniversary
12 on March 28, 2009.

13 ACTING PRESIDENT BRESLIN: The
14 question is on the resolution. All those in
15 favor signify by saying aye.

16 (Response of "Aye.")

17 ACTING PRESIDENT BRESLIN:
18 Opposed, nay.

19 (No response.)

20 ACTING PRESIDENT BRESLIN: The
21 resolution is adopted.

22 Senator Klein.

23 SENATOR KLEIN: Mr. President,
24 there will be an immediate meeting of the

1 Rules Committee in the Majority Conference
2 Room, 332.

3 Pending the report of the Rules
4 Committee, may we please stand at ease.

5 ACTING PRESIDENT BRESLIN: There
6 will be an immediate meeting of the Rules
7 Committee in the Majority Conference Room,
8 Room 332.

9 The Senate will stand at ease
10 pending the report of the Rules Committee.

11 (Whereupon, the Senate stood at
12 ease at 11:32 a.m.)

13 (Whereupon, the Senate reconvened
14 at 11:52 a.m.)

15 ACTING PRESIDENT BRESLIN:
16 Senator Klein.

17 SENATOR KLEIN: Mr. President, at
18 this time can we return to the order of
19 reports of standing committees.

20 I believe there's a report of the
21 Rules Committee at the desk, and I move for
22 its acceptance.

23 ACTING PRESIDENT BRESLIN:
24 Returning to the order of reports of standing

1 committees, there is a report of the Rules
2 Committee at the desk.

3 The Secretary will read.

4 THE SECRETARY: Senator Smith,
5 from the Committee on Rules, reports the
6 following bill direct to third reading:

7 Senate Print 3641, by Senator
8 C. Johnson, an act authorizing the State
9 Comptroller.

10 ACTING PRESIDENT BRESLIN:
11 Senator Klein.

12 SENATOR KLEIN: Mr. President, I
13 move we accept the report of the Rules
14 Committee.

15 ACTING PRESIDENT BRESLIN: All
16 those in favor of accepting the Rules
17 Committee report please signify by saying aye.

18 (Response of "Aye.")

19 ACTING PRESIDENT BRESLIN:
20 Opposed, nay.

21 (No response.)

22 ACTING PRESIDENT BRESLIN: The
23 report of the Rules Committee is accepted.

24 Senator Klein.

1 SENATOR KLEIN: Mr. President,
2 could we at this time take up the reading of
3 Calendar Number 27.

4 ACTING PRESIDENT BRESLIN: The
5 Secretary will read.

6 THE SECRETARY: Calendar Number
7 55, by Senator Savino, Senate Print 2312, an
8 act to amend the Retirement and Social
9 Security Law, in relation to extension.

10 ACTING PRESIDENT BRESLIN: Read
11 the last section.

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

14 ACTING PRESIDENT BRESLIN: Call
15 the roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes, 60.

18 ACTING PRESIDENT BRESLIN: The
19 bill is passed.

20 THE SECRETARY: Calendar Number
21 117, by Senator Hassell-Thompson, Senate Print
22 3401, an act to amend the Correction Law, in
23 relation to enabling.

24 ACTING PRESIDENT BRESLIN: The

1 Secretary will read the last section.

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

4 ACTING PRESIDENT BRESLIN: Call
5 the roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT BRESLIN:
8 Senator DeFrancisco, to explain his vote.

9 SENATOR DeFRANCISCO: Yes, this
10 is an excellent bill. I believe the sheriffs
11 around the state are supportive of this bill.

12 This bill being our 58th bill that
13 we've passed so far in session, on the 33rd
14 day of session this year. So we're averaging
15 a very healthy 1.75 bills per day of session
16 day. As compared to prior years, when we
17 didn't come here on Thursdays -- less days --
18 last year we had 263 bills passed, and in
19 2007, 182 bills passed.

20 So I guess this is a wonderful
21 bill. We'd like to see more bills on the
22 floor for vote and debate, especially budget
23 bills, since we are now less than a week from
24 budget time. We've been here Thursdays, which

1 was a great idea when the Governor put his
2 budget out back in December, so that we could
3 work on the budget diligently. But
4 unfortunately, we don't have those bills
5 either.

6 So I favor this bill. I would also
7 favor bringing some budget bills onto the
8 floor so we could study them and actually
9 debate the biggest issue facing the State of
10 New York; namely, its budget.

11 Thank you. I vote aye.

12 ACTING PRESIDENT BRESLIN: Thank
13 you, Senator DeFrancisco.

14 Senator Hassell-Thompson, to
15 explain her vote.

16 SENATOR HASSELL-THOMPSON:
17 Senator DeFrancisco, first of all, let me
18 thank you for your support of the bill.

19 Since this is my first bill in the
20 Majority, of course, obviously, it means a
21 great deal to me. It means an even bigger
22 deal that you didn't lay it aside, because I
23 had all this wonderful speech that I had
24 prepared.

1 (Laughter.)

2 SENATOR MARCELLINO: Lay it
3 aside.

4 (Laughter.)

5 SENATOR HASSELL-THOMPSON: Thank
6 you, Carl. I appreciate you as well.

7 But, you know, just to say that in
8 this budget crunch we want to be sure that we
9 codify and clarify what sheriffs can do. And
10 I just appreciate the support on this bill.

11 Thank you, Mr. President.

12 ACTING PRESIDENT BRESLIN: Thank
13 you, Senator Hassell-Thompson.

14 The Secretary will announce the
15 results.

16 THE SECRETARY: Ayes, 60. Nays,
17 0.

18 ACTING PRESIDENT BRESLIN: The
19 bill is passed.

20 Senator Klein, that completes the
21 noncontroversial reading of the calendar.

22 SENATOR KLEIN: Mr. President,
23 can you please recognize Senator Ruth
24 Hassell-Thompson for a brief announcement.

1 ACTING PRESIDENT BRESLIN:

2 Senator Hassell-Thompson.

3 SENATOR HASSELL-THOMPSON: Thank
4 you again, Mr. President.

5 Immediately following this session
6 there will be a Majority conference in the
7 Majority Conference Room, Room 332.

8 Thank you.

9 ACTING PRESIDENT BRESLIN:
10 Senator Klein.

11 SENATOR KLEIN: Mr. President, is
12 there any further business at the desk?

13 ACTING PRESIDENT BRESLIN:
14 Senator Klein, the desk is clear.

15 SENATOR KLEIN: There being none,
16 I move that we adjourn at the call of the
17 Majority Leader, intervening days to be
18 legislative days.

19 ACTING PRESIDENT BRESLIN: There
20 being no further business to come before the
21 Senate, on motion, the Senate stands adjourned
22 at the call of the Majority Leader,
23 intervening days to be legislative days.

24 (Whereupon, at 11:57 a.m., the

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Senate adjourned.)