NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 28, 2009

3:31 p.m.

REGULAR SESSION

SENATOR DAVID J. VALESKY, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT VALESKY: The Senate will please come to order.

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

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

ACTING PRESIDENT VALESKY: In the absence of clergy, may we bow our heads in a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT VALESKY: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Monday, April 27, the Senate met pursuant to adjournment. The Journal of Sunday, April 26, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT VALESKY: 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 Klein.

SENATOR KLEIN: Mr. President, on behalf of Senator Carl Kruger, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Number 4690.

ACTING PRESIDENT VALESKY: So ordered.

Senator Klein.

SENATOR KLEIN: On behalf of Senator Squadron, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Number 4548.

ACTING PRESIDENT VALESKY: So

ordered.

SENATOR KLEIN: On behalf of myself, on page 7 I offer the following amendments to Calendar Number 19, Senate Print 1363B, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT VALESKY: So ordered.

Senator Klein.

SENATOR KLEIN: Are there any substitutions at the desk?

ACTING PRESIDENT VALESKY: There are substitutions at the desk.

The Secretary will read.

THE SECRETARY: On page 7, Senator C. Johnson moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 755A and substitute it for the identical Senate Bill Number 958B, Third Reading Calendar 8.

On page 8, Senator Schneiderman moves to discharge, from the Committee on Codes, Assembly Bill Number 4320A and substitute it for the identical Senate Bill

Number 1647A, Third Reading Calendar 23.

On page 14, Senator Adams moves to discharge, from the Committee on Finance, Assembly Bill Number 2858A and substitute it for the identical Senate Bill Number 3580A, Third Reading Calendar 165.

On page 16, Senator Sampson moves to discharge, from the Committee on Judiciary, Assembly Bill Number 2574 and substitute it for the identical Senate Bill Number 2970, Third Reading Calendar 184.

On page 16, Senator DeFrancisco moves to discharge, from the Committee on Finance, Assembly Bill Number 650 and substitute it for the identical Senate Bill Number 1491, Third Reading Calendar 186.

On page 17, Senator Serrano moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 4692 and substitute it for the identical Senate Bill Number 3424, Third Reading Calendar 199.

On page 18, Senator Oppenheimer moves to discharge, from the Committee on

Health, Assembly Bill Number 723 and substitute it for the identical Senate Bill Number 3450, Third Reading Calendar 205.

And on page 18, Senator Addabbo moves to discharge, from the Committee on Education, Assembly Bill Number 1245A and substitute it for the identical Senate Bill Number 3254A, Third Reading Calendar 210.

ACTING PRESIDENT VALESKY: Substitutions ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, may we at this time adopt the Resolution Calendar in its entirety, with the exception of Senate Resolutions 1574, 1604, 1605, and 1618.

ACTING PRESIDENT VALESKY: All those in favor of adopting the Senate Resolution Calendar in its entirety, with the exception of Resolutions 1574, 1604, 1605, and 1618, please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The Resolution Calendar, with the exceptions, is adopted in its entirety.

Senator Klein.

SENATOR KLEIN: Mr. President, may we at this time revisit Senate Resolution Number 1033, previously adopted by this house on April 7, 2009, by having the resolution read in its entirety and then recognizing Senator Farley to speak on his resolution.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: By Senator Farley, Legislative Resolution Number 1033, honoring "EJ" Knapik upon the occasion of his designation as recipient of the 2009 Silver Helmet AMVET of the Year Award.

"WHEREAS, The State of New York takes great pride in recognizing its esteemed residents who have distinguished themselves in their community; and

"WHEREAS, 'EJ' Knapik, of Glenville, was honored with the 2009 Silver

Helmet AMVET of the Year Award during a banquet at the Hilton Baltimore BWI Airport on March 14, 2009; and

"WHEREAS, 'EJ' is a veteran of World War II and has been actively involved in AMVET since its early days; and

"WHEREAS, He was a charter member of the Amsterdam AMVETS Post 21, representing his post as delegate to the state convention nearly every year for 60 years; and

"WHEREAS, 'EJ' has also served the post as state legislative chairman for almost 40 years and was its first finance officer, district adjutant, and alternate NEC; and

"WHEREAS, He served as VAVS representative for the Capital District for AMVETS at the Samuel Stratton VA Medical Center for over 30 years; and

"WHEREAS, 'EJ' is also a popular AMVETS presenter of ROTC awards at colleges and universities; and

"WHEREAS, He was instrumental in the completion of the New York State Vietnam Memorial, the New York State Korean War

Memorial, and the New York State World War II Memorial; and

"WHEREAS, 'EJ' dedicated his time to the Saratoga National VA Cemetery support group; and

"WHEREAS, He was honored with the AMVETS National VAVS Leadership Award in 2007; and

"WHEREAS, 'EJ' has exhibited the true spirit of this prestigious award through his tireless commitment to veterans; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor 'EJ' Knapik upon the occasion of his designation as special recipient of the 2009 Silver Helmet AMVET of the Year Award; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to 'EJ' Knapik."

ACTING PRESIDENT VALESKY: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

In the gallery, of course, is "EJ" Knapik, a distinguished World War II veteran -- a member of our greatest generation, I must add.

He has been the state legislative chairman for over 40 years on behalf of AMVETS, and he served as the VAVS representative to the Capital District for so many years, and Stratton Hospital. He's worked at the Saratoga National Cemetery and been involved with the memorials for the Vietnam, Korean, and World War II veterans.

This is a distinguished veteran, and we're honored to have you here today. And, Mr. President, if you would give the welcome of our house to Mr. Knapik, who is in the gallery right now. I salute you.

ACTING PRESIDENT VALESKY: I'll be happy to do so. Thank you, Senator Farley.

Mr. Knapik, on behalf of all of the members of the Senate, thank you for your service and congratulations.

(Standing ovation.)

ACTING PRESIDENT VALESKY:

Senator Klein.

SENATOR KLEIN: Mr. President, may we at this time take up Senate Resolution Number 1605. I ask that the resolution be read in its entirety and move for its immediate adoption and allow Senator Savino to speak on her resolution.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: By Senator Savino, Legislative Resolution Number 1605, commending the members of the Staten Island Girl Scouts of America upon the occasion of their visit to the New York State Capitol in Albany on Tuesday, April 28, 2009.

"WHEREAS, It is the sense of this Legislative Body to honor the youth of today and the leaders of tomorrow whose character and achievements best exemplify the ideals and values cherished by this great state and nation; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative

Body is justly proud to commend the members of the Staten Island Girl Scouts of America upon the occasion of their visit to the New York State Capitol in Albany on April 28, 2009; and

"WHEREAS, The troop leaders of the Staten Island Girl Scouts of America include Christine Battaglia, Connie D'Alessio, and Juliee Hughson; and the Girl Scouts are Sakinah Abdul-Badi, Ayanna Bakiriddin, Kelly Ann Cameron, Alessandra Cerrillo, Katherine Connors, Julia D'Alessio, Meagan Derbyshire, Lindsey Ellison, Victoria Gonzalez, Salihah Hughson, Victoria Kennedy, Gabriella Leone, Amanda Levine, Bridget Lewandowski, Angela Masullo, Elaine Minew, Kaitlin O'Brien, Alexa Reidlinger, Brittany Sperruggia, and Nicole Tiburzi; and

"WHEREAS, Girl Scouting has cultivated in our state's young people the goals of building solid values of sisterhood and the importance of working with others, stimulating both mind and body, instilling pride and encouraging community service and success; and

"WHEREAS, An American and international institution, Girl Scouting has expanded the horizons of the countless hundreds of thousands who have participated in scouting programs; and

"WHEREAS, The founder of Girl Scouts of USA, Juliette Gordon Low, exemplified a lifelong willingness to learn and serve, and a desire to equip others to do so. In developing the Girl Scout movement in the United States, she brought girls of all backgrounds into the out-of-doors, giving them the opportunity to develop self-reliance and resourcefulness; and

"WHEREAS, Quite contrary to the societal mores of southern America in 1912, Juliette Gordon Low encouraged girls not only to prepare for roles as homemakers, but for active citizenship and possible roles as professional women in the arts, sciences and business; and

"WHEREAS, Active citizenship is something that today's Girl Scouts know about. Girls nationwide embrace making the world a

better place as part of the Girl Scout experience, whether it's a Brownie Girl Scout troop singing to residents at an assisted living facility or teen girls donating their Girl Scout cookie proceeds to hurricane survivors; and

"WHEREAS, Thousands of girls ages 8 through 14 earn their Girl Scouts Bronze and Silver Award for improving their community through service. Each year, a very special set of teen Girl Scouts pursue the Girl Scout Gold Award, the leadership development project requiring at least 70 hours of community service, after completing a rigorous ladder of preparation steps; and

"WHEREAS, Poised eagerly with enthusiasm and determined purpose, the Staten Island High School Girl Scouts now stand honorably and in eager anticipation of future challenges, understanding and appreciating the caring counsel and support provided by their teachers, leaders and parents; now, therefore, be it

"RESOLVED, That this Legislative

Body pause in its deliberations to commend the members of the Staten Island Girl Scouts of America upon the occasion their visit to the New York State Capitol in Albany on Tuesday, April 28, 2009, and to extend to them the best wishes for a future of purposeful success and well-being, fully confident of their response to a promising future and appreciative of the model they represent for all aspiring young people of the Empire State; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the troop leaders and to each member of the Staten Island Girl Scouts of America."

ACTING PRESIDENT VALESKY: Senator Savino.

SENATOR SAVINO: Thank you, Mr. President.

I want to first thank the young ladies who have traveled again to Albany -- I think this is the third trip that they've come to Albany to see what we do up here. And every time, they become more engaged and more interested. And I believe it's as much a

learning experience for myself as it is for them.

I also want to thank Senator Lanza for helping host today's Girl Scout trip to Albany, and my colleagues in the Assembly.

We know that the first Girl Scouts troop was organized just about a hundred years ago, and about 60 years ago Congress chartered the Girl Scouts of the USA. As of this year, there are 3.7 million Girl Scouts in the world, 2.7 million girls and 928,000 adults working primarily as volunteers.

Up there in the chamber behind those girls are four women who lead this troop: Christine Battaglia, the coordinator; Connie D'Alessio; Debby Dennis; and Juliee Hughson. They volunteer their time and their efforts to help these young ladies live up to the Girl Scout mission.

And that mission is Girl Scouting builds girls of courage, confidence and character who make the world a better place. And they certainly do. In fact, they made the chamber a better place today when they gave us

a gift. When you all came in you noticed on your desks was a box of Girl Scout cookies, courtesy of those young ladies up here.

Although I do know, apparently the -- I've been informed by Mike Fallon that they may in fact have violated the ethics law by providing us with a gift of more than nominal value. But I think we will have to overlook that, because they did it with the best of intentions.

(Laughter.)

SENATOR SAVINO: So again, I want to thank them for coming up again, participating in getting to know what government is about, and helping make us better people as we help make them better young ladies of character.

ACTING PRESIDENT VALESKY: Thank you, Senator Savino.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, if it would help Senator Savino, I would be more than happy to help her eat the evidence.

(Laughter.)

ACTING PRESIDENT VALESKY: All in favor of adopting the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The resolution is adopted.

On behalf of Senators Savino and Lanza, thank you for sharing part of your day with us. Continue to do the good work that you do in Staten Island. Thank you, and safe travels home.

(Applause.)

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, may we at this time take up Senate Resolution Number 1574. I ask that the title of the resolution be read and move for its immediate adoption and allow Senator Serrano to speak on his resolution.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: By Senator Serrano, Legislative Resolution Number 1574, memorializing Governor David A. Paterson to proclaim September 12-13, 2009, as Heritage Weekend in the State of New York, and September 7-13, 2009, as Heritage Week in the State of New York.

ACTING PRESIDENT VALESKY: Senator Serrano, on the resolution.

SENATOR SERRANO: Thank you very much, Mr. President.

This is really a wonderful resolution, and I hope that my colleagues join me in supporting it. Heritage Week is a very important initiative which will help attract visitors to our state's wonderful tourist destinations.

Heritage Week takes place from September 7th through the 13th, and during this time museums, historical societies, parks and other tourist attractions throughout the state have all agreed to provide reduced rates

to special events and visitors.

It's important to know, within my role as chair of the Committee on Cultural Affairs and Tourism, how important it is as an economic development tool that we have people utilizing our state parks, our cultural attractions which we have so many of.

And during the past, during times of fiscal downturn as what we are experiencing now, usage at state parks, museums, and other historical and heritage locations goes up. I think the term "staycation" -- meaning you go on vacation but you stay close to home -- really does explain what many families will be doing during this summer break.

And I think it's wonderful that we have Heritage Week as a real opportunity to showcase all of the wonderful tourist attractions that we have here in our very own State of New York. Whether it be downstate, upstate, on the western edge, there is really so much to be done. And I really look forward to Heritage Week and also ensuring that people take advantage of it.

I spoke a bit about statewide the importance of this, but a little bit closer to home where I represent, in East Harlem and the South Bronx, during the 1970s the community was in many ways abandoned. There was so much blight throughout the community.

And when you think about how we recovered as a community, in many ways our cultural institutions brought in much-needed resources, whether it be the Bronx Zoo, the Botanical Gardens, the museums. It really did aid in the overall recovery of our community.

Now, East Harlem and the South Bronx, with emerging and growing and strengthening cultural corridors, are becoming hotbeds of tourism and cultural activity.

So I thank you very much, Mr. President, for your indulgence in letting me speak on this resolution, and I hope all my colleagues join me in supporting it.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Serrano.

Are there any other Senators who

wish to be heard?

Seeing none, the question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The resolution is adopted.

Senator Serrano has requested that the resolution be open for multisponsorship. Any Senator wishing not to cosponsor the resolution please notify the desk.

Senator Klein.

SENATOR KLEIN: Mr. President, may we at this time take up Senate Resolution Number 1604. I ask that the title of the resolution be read and move for its immediate adoption and allow Senator Antoine Thompson to speak on his resolution.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: By Senator

Thompson, Legislative Resolution Number 1604, urging the New York State Congressional delegation to aid in the appropriation of the $475 million called for in President Obama's budget for a Great Lakes restoration initiative, and to provide the economic investment and revitalization that the Great Lakes system needs.

ACTING PRESIDENT VALESKY: Senator Thompson.

SENATOR THOMPSON: Thank you. Thank you, Mr. President. That sounds good. Great ring to it. And the Deputy Majority Leader, I want to thank him for giving me just a couple of quick moments.

Today is Great Lakes Lobby Day in Albany, and it's really important, particularly up in upstate New York and Western New York, where we have two Great Lakes, Erie and Ontario. They play a vital role in New York State's economy. In addition to that, more than 3 million New Yorkers receive drinking water from the Great Lakes as well.

The EPA is really moving forward under President Obama to help clean up many of our Great Lakes. This year in the state budget we're able to provide funding through the Environmental Protection Fund to improve our Great Lakes as well.

In the Great Lakes, there are thousands of islands. In my part of the state we have Grand Island, which is an area that many people live in, and it's a really great place as well.

In addition, to Cayuga Island we were able to provide some funding through the Biodiversity Stewardship Program through the EPF as well.

I encourage everyone to support this resolution. In addition, waterfront revitalization this year was increased in the Environmental Protection Fund. And that's a really big issue in many communities in upstate New York, waterfront revitalization, particularly as the shoreline abuts the Great Lakes.

So I would encourage everyone we've

got to protect our water. I was just recently in Atlanta, and as many people remember, last year they couldn't even water their grass for most of the summer. They couldn't wash their cars as well.

And we have a precious commodity in terms of an abundant supply of water. And we must protect that water, because in the next 10 to 25 years our Great Lakes are going to be one of the most sought-after things in the United States of America.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Thompson.

Are there any other Senators who wish to be heard on the resolution?

Seeing none, the question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The

resolution is adopted.

Senator Thompson has asked that it be open for cosponsorship. Any Senator wishing not to cosponsor the resolution please notify the desk.

Senator Klein.

SENATOR KLEIN: Mr. President, may we at this time take up Senate Resolution Number 1618. I ask that the resolution be read in its entirety and move for its immediate adoption and allow Senator Perkins to speak on his resolution.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: By Senator Perkins, Legislative Resolution Number 1618, honoring the many contributions of the New York State farmworkers and recognizing their need for fair labor practices.

"WHEREAS, It is the sense of this Legislative Body to commend the efforts of our farmworkers as they continue their hard work in cultivating the land, facing the many challenges of nature such as flood, drought

and heat, in order to grow our food; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to honor the many contributions of the New York State farmworkers and to recognize their need for fair labor practices; and

"WHEREAS, Friday, May 1, 2009, is International Labor Day. The campaign for an 8-hour work day and a 40-hour work week launched by the American Federation of Labor on May 1, 1890, continues to this day for farmworkers in New York State; and

"WHEREAS, Farmworkers directly contribute billions of dollars of economic productivity to the New York economy and are the backbone for the 'buy local' movement now coming into vogue. The denial of equal rights and protections to farmworkers in 2009 relates fundamentally to our country's original sin of slavery; and

"WHEREAS, Over 70 years ago, the New Deal labor regime, as conceived by

New York leaders President Franklin Delano Roosevelt, Secretary of Labor Frances Perkins, and Secretary Robert Wagner, directed Congress to pass basic wage and hour protections for industrial and agricultural workers.

"Despite a majority, these protections were passed only by accommodating the demands of Southern segregationists who objected on the grounds that the protections would put farmworkers, a primarily African-American workforce, on an equal footing with their white counterparts in other industries. As a result, the farmworkers fell victim to political expediency and were left out of the New Deal and subsequent labor and employment protections; and

"WHEREAS, New York State then patterned its own labor laws after the New Deal, repeating those particular exclusions. This state of affairs stands in contrast to New York's ideals, history, and contemporary popular opinion; and

"WHEREAS, Ending this shameful era of exclusion would restore pride to the 'Pride

of New York' program and truly honor the industrious farmworkers of New York State; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor the many contributions of New York State farmworkers and to recognize their need for fair labor practices; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Rural and Migrant Ministry and to the Justice for Farmworkers Campaign."

ACTING PRESIDENT VALESKY: Senator Perkins, on the resolution.

SENATOR PERKINS: Thank you very much, Mr. President.

And I hope I can get the support of my colleagues on this resolution.

Every day in our lives we are fortunate enough to receive the benefits of the hard work from others -- education from teachers, safety from firemen and police, and health from doctors. The benefits from their hard work are clear to see, and they are much

appreciated.

It's critical that we see the hard work of farmworkers through that same lens. Farmworkers are as equally important as the professions I just mentioned.

Unfortunately, the fruits of their labor and their hard work are often underappreciated. We see the product of their work every day in our supermarkets and on our dinner tables. It's time we value those who provide for us by providing them with fair labor practices.

So for me, this is not simply about fair labor practices, but frankly this is about civil rights, this is about human rights. And I would hope that my colleagues would join me in showing respect and support for the farmworkers.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Perkins.

Senator Schneiderman, on the resolution.

SENATOR SCHNEIDERMAN: Thank you.

I am pleased to stand in support of this resolution also. And I would urge my colleagues, ladies and gentlemen, this is a matter of fundamental justice. And in the history of the United States we've seen over and over again that you can delay justice, but ultimately you cannot deny justice.

Farmworkers deserve protections that are available to every other union member, to other workers in the State of New York. It is appalling that in 2009 we still have the antiquated system in place that exists under our state laws.

I would urge everyone to support the resolution. But also let us act on this resolution. We have two more months of session. Let's not leave here without dealing with the rights of farmworkers once and for all in the great State of New York.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Schneiderman.

Are there any other Senators who wish to be heard?

Seeing none, the question is on the resolution. All in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, can we at this time move to a reading of Senate Calendar Number 39.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of Senate Calendar Number 39.

THE SECRETARY: Calendar Number 145, by Member of the Assembly Aubry, Assembly Print Number 4039, an act to amend the Correction Law, in relation to removal.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 165, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 2858A, an act to amend the Executive Law, in relation to authorizing.

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 168, by Senator Sampson, Senate Print 2350, an act to amend the Real Property Actions and Proceedings Law, in relation to excluding certain days.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Ranzenhofer and Saland recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 175, by Senator Thompson, Senate Print 3784, an act to amend the Environmental Conservation Law, in relation to special powers.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 180, by Senator Hassell-Thompson, Senate Print 3755, an act to amend Chapter 383 of the Laws

of 1991, relating to the incorporation.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Yes, Mr. President. I appreciate the purpose of this bill, and I appreciate the intent of the Senator who's sponsoring the bill.

However, at a time when the Bronx zoo is shipping, according to the papers, animals from its exhibits to other zoos around the country, if not the world, closing down exhibits and shortening hours due to a lack of funds, at a time when budgets are being cut, people are being laid off, and a whole host of issues going on as a result of the economic fiscal times that we are going through -- and I know this bill doesn't mandate it. I know

this bill doesn't require them to do anything. It simply gives them the opportunity or the permission to do it if they choose.

I would suggest that the zoo at this point in time perhaps think twice before they issue or do away with any possible revenue that they could get. I don't think this is the time for it.

I understand the symbolism. I understand that it's a good thing to let youngsters in the zoo for free. However, the zoo can't afford it at this point in time. And I would suggest that they keep as much revenue in their coffers as they possibly can.

Mr. President, I vote nay.

ACTING PRESIDENT VALESKY: Senator Marcellino to be recorded in the negative.

Senator Hassell-Thompson, to explain her vote.

SENATOR HASSELL-THOMPSON: Thank you. Thank you, Mr. President.

I'm sorry that I was not recognized before Senator Marcellino, because I wanted

the opportunity to say that we are very cognizant in the Bronx of the difficulties in our budget. And I know that every free day represents or appears to represent a non-revenue day for the zoo.

But one of the things that becomes important about our zoo and I don't want us to lose sight of -- which is what this bill really is about -- is that the zoo is more than a recreational facility, it is a science area as well. And one of the things that over the many years that the Bronx Zoo has attempted to do is to not only give a free day to our senior citizens but to our children to ensure that they have an opportunity to be able to come, study and enjoy the animals in this relative captivity.

We do recognize, and so does the zoo, the importance. But I just appreciate their understanding and the sacrifices that staff has been willing to make to adjust their own salaries in order to continue to accommodate the children of our community, not only in the Bronx but across this state.

The Bronx Zoo is a treasure to the Bronx but, as well, to the State of New York. It is part of a wildlife zoological experiment that does extensive work with animals. And not just for the animal lover, but it is a place where people can learn about those animals that are becoming extinct and the efforts on the part of the zoo to connect to the Congo and to other areas where the animals come from. It is as much an educational opportunity as it is a joy and a pleasure.

So for those of you who supported this bill today, I appreciate it, as a representative of the Bronx and of the zoo. But certainly I do recognize, as all of you do, what a difficult time this is.

But if we take every educational opportunity and every pleasure away from the people in our communities, it will make it that much more difficult for us to get through these difficult times.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Senator Hassell-Thompson to be recorded in the

affirmative.

Announce the results.

THE SECRETARY: Ayes, 59. Nays, 1. Senator Marcellino recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 195, by Senator Lanza, Senate Print 3008, an act to amend the Public Buildings Law, in relation to naming.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Senator Klein, that completes the noncontroversial reading of the calendar.

SENATOR KLEIN: Mr. President, at this time can we please move to a reading of the controversial calendar.

ACTING PRESIDENT VALESKY: The Secretary will ring the bells.

I ask all members to proceed to the Senate chamber so that we can commence with the one bill on the controversial calendar for today's agenda.

The Secretary will read.

THE SECRETARY: Calendar Number 165, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 2858A, an act to amend the Executive Law.

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT VALESKY: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe there is an amendment at the desk by Senator Robach. I would ask that you waive its reading and call on Senator Robach, please.

ACTING PRESIDENT VALESKY: Thank

you, Senator Libous.

There is an amendment at the desk. I have reviewed the amendment with counsel and rule it out of order as not germane to the original bill.

The amendment, which would prohibit certain discriminatory practices against victims of domestic violence related to housing accommodations, that's a different topic than the underlying bill, which is intended to maintain the confidentiality of domestic violence victims' residential, school or work addresses.

Senator Robach.

SENATOR ROBACH: Yes, Mr. President. If I could appeal the ruling of the chair.

ACTING PRESIDENT VALESKY: You certainly may.

SENATOR ROBACH: This is a very, very important --

ACTING PRESIDENT VALESKY: Senator Robach, you wish to be heard on the appeal; is that correct?

SENATOR ROBACH: Please, Mr. President.

ACTING PRESIDENT VALESKY: Senator Robach, on the appeal.

SENATOR ROBACH: I indeed do.

This is very important, I think not only in scope but also in germaneness. This is a bill that obviously, if people don't have a residence to begin with -- I think it only improves Senator Adams' very good bill -- there is no address to keep confidentiality of any kind. This bill couldn't be more germane to anybody logically looking at this.

This is a bill that's been worked on not only with victims and advocates in Rochester, but all across the state. And we have tried several attempts to get this bill out by a motion to discharge and other things, only to have this be cut off by several different ways by the other side of the aisle.

And I think clearly Senator Adams' bill, which is very good, anyone with any concern for this population group or any modicum of logic would know that if you don't

have a residence and you're denied that, there is absolutely no address to keep confidential.

So I would hope that all my colleagues, again on both sides of the aisle, would vote to amend this bill to make Senator Adams' very good bill that much stronger and further protect the advocates who have been working on this piece of legislation for some time.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Robach.

The original ruling, which is that the amendment is not germane, would also require a change in the title of the original bill.

And also we believe that the amendment would significantly expand the purpose and the scope and the object of the original bill. So the ruling is that the amendment is not germane.

The question before the house, then, is whether the decision of the chair shall stand. All those in favor of overruling

the decision of the chair please raise your hand.

The Secretary will announce the results.

THE SECRETARY: Ayes, 30. Nays, 29.

ACTING PRESIDENT VALESKY: Having failed to obtain the necessary votes, the ruling of the chair is sustained and the appeal is denied.

Are there any Senators who wish to be heard on the legislation that's presently before us?

Can we have some order, please.

Seeing none, the Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

SENATOR LIBOUS: Mr. President, point of order, please.

ACTING PRESIDENT VALESKY: Yes, Senator Libous.

SENATOR LIBOUS: Clarification on the last vote, please.

ACTING PRESIDENT VALESKY: On the appeal of the ruling of the chair?

SENATOR LIBOUS: That's correct, sir.

ACTING PRESIDENT VALESKY: Senator Libous, there were 30 votes recorded to overrule the decision of the chair, falling two shy of the 32 necessary. Therefore, the appeal failed.

SENATOR LIBOUS: Could you point out the section of law? Or the rules, I'm sorry.

ACTING PRESIDENT VALESKY: Section 234, Subsection 1 of Mason's.

SENATOR LIBOUS: Mason's?

ACTING PRESIDENT VALESKY: Mason's.

SENATOR LIBOUS: Could you please read the section, Mr. President? Because I don't have Mason's available with me.

ACTING PRESIDENT VALESKY: Sure. "A tie vote sustains the presiding officer, since a majority is required to overrule the presiding officer's decision." Per Mason's, Section 234, Subsection 1.

SENATOR LIBOUS: Mr. President, if I could continue my point of order.

ACTING PRESIDENT VALESKY: Yes.

SENATOR LIBOUS: What do the Senate rules say? Mr. President, Mason's is used only when the Senate rules are silent.

ACTING PRESIDENT VALESKY: -- are silent. The Senate rules are silent on this matter. Hence the reference to Mason's.

SENATOR LIBOUS: And if I understand, it was 30-29, is that correct?

ACTING PRESIDENT VALESKY: Thirty votes to overturn the ruling of the chair, falling two shy of a majority of the house.

SENATOR LIBOUS: A majority of the members present, Mr. President. Thirty to 29 is a majority of one.

ACTING PRESIDENT VALESKY: Senator Klein, why do you rise?

SENATOR KLEIN: Mr. President, could we stand at ease for a moment.

ACTING PRESIDENT VALESKY: The Senate will stand at ease momentarily.

(Whereupon, the Senate stood at ease at 4:16 p.m.)

(Whereupon, the Senate reconvened at 4:18 p.m.)

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, I just want to refer the Senate to the pertinent rule. It's Senate Rule 9, Section 4-C. It shall require an affirmative vote of a majority of all members elected to overrule a ruling of the chair.

ACTING PRESIDENT VALESKY: Senator Libous.

SENATOR LIBOUS: So, Mr. President, it is therefore in the Senate rules?

ACTING PRESIDENT VALESKY: It is therefore in the Senate rules.

One would expect me to have known

that, is what you're going to say next; right?

(Laughter.)

SENATOR LIBOUS: Thank you, Mr. President.

ACTING PRESIDENT VALESKY: You're welcome, Senator Libous.

On the bill, the Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: The Secretary will announce the results.

THE SECRETARY: In relation to Calendar Number 165: Ayes, 61. Nays, 0.

ACTING PRESIDENT VALESKY: The bill is passed.

Senator Klein, that completes the controversial reading of the calendar.

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

ACTING PRESIDENT VALESKY: There is none.

SENATOR KLEIN: There being none, I move that we adjourn until Wednesday, April 29th, at 11:00 a.m.

ACTING PRESIDENT VALESKY: On a motion by Senator Klein, the Senate stands adjourned until Wednesday, April 29th, at 11:00 a.m.

(Whereupon, at 4:24 p.m., the Senate adjourned.)