

1 NEW YORK STATE SENATE

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3  
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 April 21, 2010

11 11:56 a.m.

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13  
14 REGULAR SESSION

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18 SENATOR DAVID J. VALESKY, Acting President

19 ANGELO J. APONTE, Secretary

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

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

4 I ask everyone present to please  
5 rise and recite with me the Pledge of  
6 Allegiance.

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

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

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

14 ACTING PRESIDENT VALESKY: The  
15 reading of the Journal.

16 The Secretary will read.

17 THE SECRETARY: In Senate,  
18 Tuesday, April 20, the Senate met pursuant to  
19 adjournment. The Journal of Monday, April 19,  
20 was read and approved. On motion, Senate  
21 adjourned.

22 ACTING PRESIDENT VALESKY:  
23 Without objection, the Journal stands approved  
24 as read.

25 Presentation of petitions.

1 Messages from the Assembly.  
2 Messages from the Governor.  
3 Reports of standing committees.  
4 Reports of select committees.  
5 Communications and reports from  
6 state officers.

7 Motions and resolutions.

8 Senator Klein.

9 SENATOR KLEIN: Mr. President, on  
10 behalf of Senator Parker, on page number 18 I  
11 offer the following amendments to Calendar  
12 Number 298, Senate Print Number 3601B, and ask  
13 that said bill retain its place on Third  
14 Reading Calendar.

15 ACTING PRESIDENT VALESKY: So  
16 ordered.

17 Senator Klein.

18 SENATOR KLEIN: Mr. President, I  
19 believe there are substitutions at the desk.  
20 I ask that we make the substitutions at this  
21 time.

22 ACTING PRESIDENT VALESKY: The  
23 Secretary will read the substitutions.

24 THE SECRETARY: On page 4,  
25 Senator Adams moves to discharge, from the

1 Committee on Veterans, Homeland Security and  
2 Military Affairs, Assembly Bill Number 8313A  
3 and substitute it for the identical Senate  
4 Bill Number 5838A, First Report Calendar 402.

5 On page 4, Senator Adams moves to  
6 discharge, from the Committee on Finance,  
7 Assembly Bill Number 8181 and substitute it  
8 for the identical Senate Bill Number 3023,  
9 First Report Calendar 403.

10 On page 4, Senator Diaz moves to  
11 discharge, from the Committee on Finance,  
12 Assembly Bill Number 8105 and substitute it  
13 for the identical Senate Bill Number 3097,  
14 First Report Calendar 404.

15 On page 4, Senator C. Kruger moves  
16 to discharge, from the Committee on Finance,  
17 Assembly Bill Number 8063 and substitute it  
18 for the identical Senate Bill Number 3364,  
19 First Report Calendar 405.

20 On page 4, Senator Aubertine moves  
21 to discharge, from the Committee on Codes,  
22 Assembly Bill Number 6687 and substitute it  
23 for the identical Senate Bill Number 4476,  
24 First Report Calendar 406.

25 On page 4, Senator Savino moves to

1 discharge, from the Committee on Finance,  
2 Assembly Bill Number 7173 and substitute it  
3 for the identical Senate Bill Number 4801,  
4 First Report Calendar 408.

5 On page 4, Senator Thompson moves  
6 to discharge, from the Committee on Energy and  
7 Telecommunications, Assembly Bill Number 5655  
8 and substitute it for the identical Senate  
9 Bill Number 4920, First Report Calendar 409.

10 On page 4, Senator Hassell-Thompson  
11 moves to discharge, from the Committee on  
12 Finance, Assembly Bill Number 3686A and  
13 substitute it for the identical Senate Bill  
14 Number 5395A, First Report Calendar 410.

15 On page 5, Senator Duane moves to  
16 discharge, from the Committee on Codes,  
17 Assembly Bill Number 7670 and substitute it  
18 for the identical Senate Bill Number 4429,  
19 First Report Calendar 416.

20 On page 5, Senator Serrano moves to  
21 discharge, from the Committee on Environmental  
22 Conservation, Assembly Bill Number 8489A and  
23 substitute it for the identical Senate Bill  
24 Number 1330, First Report Calendar 419.

25 On page 25, Senator Espada moves to

1 discharge, from the Committee on Higher  
2 Education, Assembly Bill Number 1130A and  
3 substitute it for the identical Senate Bill  
4 Number 1928, Third Reading Calendar 392.

5 And on page 25, Senator LaValle  
6 moves to discharge, from the Committee on  
7 Local Government, Assembly Bill Number 7095A  
8 and substitute it for the identical Senate  
9 Bill Number 2528A, Third Reading Calendar 395.

10 ACTING PRESIDENT VALESKY:  
11 Substitutions ordered.

12 Senator Klein.

13 SENATOR KLEIN: Mr. President,  
14 before we proceed, I want to acknowledge the  
15 39th birthday of one of our colleagues,  
16 Senator Craig Johnson from Nassau County.

17 (Applause.)

18 ACTING PRESIDENT VALESKY: Happy  
19 birthday, Senator Johnson.

20 Senator Klein.

21 SENATOR KLEIN: Mr. President, I  
22 believe there's a resolution at the desk by  
23 Senator Dilan. I ask that the title of the  
24 resolution be read and move for its immediate  
25 adoption.

1                   ACTING PRESIDENT VALESKY:  
2       Senator Klein, has this resolution been deemed  
3       privileged and submitted by the office of the  
4       Temporary President?

5                   SENATOR KLEIN:       Yes, it has,  
6       Mr. President.

7                   ACTING PRESIDENT VALESKY:       The  
8       Secretary will read.

9                   THE SECRETARY:       By Senator Dilan,  
10       honoring Neighbors Allied for Good Growth  
11       (NAG) for their many environmental and  
12       community planning accomplishments, in  
13       conjunction with 2010 Earth Day to be held  
14       April 22, 2010.

15                  ACTING PRESIDENT VALESKY:       The  
16       question is on the resolution. All in favor  
17       signify by saying aye.

18                  (Response of "Aye.")

19                  ACTING PRESIDENT VALESKY:  
20       Opposed, nay.

21                  (No response.)

22                  ACTING PRESIDENT VALESKY:       The  
23       resolution is adopted.

24                  Senator Klein.

25                  SENATOR KLEIN:       Mr. President, at

1       this time can we please go to a reading of the  
2       calendar.

3                ACTING PRESIDENT VALESKY:     The  
4       Secretary will proceed with the reading of the  
5       noncontroversial calendar.

6                THE SECRETARY:     Calendar Number  
7       180, by Senator Stewart-Cousins, Senate Print  
8       6720, an act to amend the Local --

9                SENATOR KLEIN:     Lay the bill  
10      aside for the day.

11               ACTING PRESIDENT VALESKY:     The  
12      bill is laid aside for the day.

13               THE SECRETARY:     Calendar Number  
14      253, by Senator Parker, Senate Print 6840A, an  
15      act to amend the Not-for-Profit Corporation  
16      Law.

17               ACTING PRESIDENT VALESKY:     Read  
18      the last section.

19               THE SECRETARY:     Section 2. This  
20      act shall take effect November 11, 2010.

21               ACTING PRESIDENT VALESKY:     Call  
22      the roll.

23               (The Secretary called the roll.)

24               THE SECRETARY:     Ayes, 60.

25               ACTING PRESIDENT VALESKY:     The

1 bill is passed.

2 THE SECRETARY: Calendar Number  
3 278, by Senator Oppenheimer --

4 SENATOR KLEIN: Lay the bill  
5 aside for the day.

6 ACTING PRESIDENT VALESKY: The  
7 bill is laid aside for the day.

8 THE SECRETARY: Calendar Number  
9 286, by Senator Thompson, Senate Print 6862,  
10 an act to --

11 SENATOR LIBOUS: Lay it aside.

12 ACTING PRESIDENT VALESKY: The  
13 bill is laid aside.

14 THE SECRETARY: Calendar Number  
15 288, by Senator Breslin, Senate Print 5110, an  
16 act to amend the Insurance Law.

17 ACTING PRESIDENT VALESKY: Read  
18 the last section.

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

21 ACTING PRESIDENT VALESKY: Call  
22 the roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 60.

25 ACTING PRESIDENT VALESKY: The

1 bill is passed.

2 THE SECRETARY: Calendar Number  
3 295, by Senator Sampson --

4 SENATOR LIBOUS: Lay it aside,  
5 please.

6 ACTING PRESIDENT VALESKY: The  
7 bill is laid aside.

8 THE SECRETARY: Calendar Number  
9 334, by Senator Savino, Senate Print 5825A, an  
10 act to amend the Civil Service Law.

11 ACTING PRESIDENT VALESKY: Read  
12 the last section.

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

15 ACTING PRESIDENT VALESKY: Call  
16 the roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes, 61.

19 ACTING PRESIDENT VALESKY: The  
20 bill is passed.

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

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

1                   ACTING PRESIDENT VALESKY:     The  
2     Secretary will ring the bells and place  
3     Calendar Number 286 before the house, on the  
4     controversial calendar.

5                   THE SECRETARY:     Calendar Number  
6     286, by Senator Thompson, Senate Print 6862,  
7     an act to amend the Local Finance Law.

8                   SENATOR LIBOUS:     Explanation.

9                   ACTING PRESIDENT VALESKY:  
10    Senator Thompson, an explanation has been  
11    requested by Senator Libous.

12                  SENATOR THOMPSON:     Yes, sir.  
13    Give me one moment, please.  (Pause.)

14                  First, let me thank you for  
15    recognizing me.

16                  This bill just allows the City of  
17    Buffalo to sell bonds for different -- it's a  
18    regular bill which allows the City of Buffalo  
19    to sell bonds.

20                  Do you have any more questions on  
21    it?

22                  SENATOR LIBOUS:     Read the last  
23    section.

24                  ACTING PRESIDENT VALESKY:     The  
25    Secretary will once again ring the bells.  I

1 ask all members to come to the chamber so that  
2 we can proceed with a vote on the  
3 controversial calendar.

4 There is a home-rule message at the  
5 desk.

6 The Secretary will read the last  
7 section.

8 Senators, we have not called for  
9 the roll yet. Thank you.

10 Senator Klein.

11 SENATOR KLEIN: Mr. President,  
12 can we please lay the bill aside for the day.

13 ACTING PRESIDENT VALESKY: The  
14 bill is laid aside for the day.

15 The Secretary will place Calendar  
16 Number 295 before the house, controversial.

17 THE SECRETARY: Calendar Number  
18 295, by Senator Sampson, Senate Print 3681, an  
19 act to amend the General Obligations Law.

20 SENATOR LIBOUS: Explanation.

21 ACTING PRESIDENT VALESKY:  
22 Senator Sampson, an explanation has been  
23 requested.

24 SENATOR SAMPSON: Thank you,  
25 Mr. President.

1                   This measure was introduced at the  
2           request of the Office of Court Administration,  
3           and it will require that persons who wish to  
4           transfer a structured settlement to another  
5           party do so by an order to show cause, and to  
6           also provide a statement as to whether there  
7           have been any transfers or applications for  
8           transfer of the structured settlement.

9                   And finally, this legislation  
10          requires that the payee shall attend before  
11          the court unless attendance is excused for  
12          good cause by the court with judicial consent.  
13          However, the payee must attend before the  
14          court either by video conferencing, by  
15          telephone, or, as I said before, if in the  
16          order to show cause they make the request that  
17          they not appear, it is done by judicial  
18          consent.

19                   ACTING PRESIDENT VALESKY:     Thank  
20          you, Senator Sampson.

21                   Senator Nozzolio.

22                   SENATOR NOZZOLIO:     Mr. President,  
23          will Senator Sampson yield?

24                   ACTING PRESIDENT VALESKY:  
25          Senator Sampson, will you yield to a question

1 from Senator Nozzolio?

2 SENATOR SAMPSON: Yes, I will.

3 ACTING PRESIDENT VALESKY: The  
4 Senator yields.

5 SENATOR NOZZOLIO: Thank you,  
6 Mr. President. Thank you, Senator Sampson.

7 This measure -- which is a good  
8 bill, Senator, and your explanation was very  
9 helpful. For some clarification purposes, it  
10 would be helpful to note your comments about  
11 appearance in the sense of what constitutes an  
12 apparent.

13 You had mentioned that electronic  
14 appearances, like through telephone and other  
15 electronic devices, would be sufficient. Is  
16 that your understanding, Senator?

17 SENATOR SAMPSON: Yes, Senator.  
18 Through you, Mr. President, yes, Senator  
19 Nozzolio.

20 And in addition, if the payee -- in  
21 their order to show cause in an affidavit,  
22 they could ask to be excused if they choose  
23 not to attend.

24 SENATOR NOZZOLIO: Mr. President,  
25 will Senator Sampson continue to yield?

1                   ACTING PRESIDENT VALESKY:

2       Senator Sampson, do you continue to yield?

3                   SENATOR SAMPSON:     Yes, I do.

4                   ACTING PRESIDENT VALESKY:     The  
5       sponsor yields.

6                   SENATOR NOZZOLIO:     Thank you,  
7       Mr. President. Thank you, Senator.

8                   The bill speaks of "excused from  
9       appearance," Senator. Does the request to be  
10      excused, does it have to be submitted with the  
11      initial order to show cause with the court, as  
12      far as you understand it to be?

13                  SENATOR SAMPSON:     Through you,  
14      Mr. President, no, it doesn't.

15                  SENATOR NOZZOLIO:     Thank you,  
16      Senator.

17                  Thank you, Mr. President. On the  
18      bill.

19                  ACTING PRESIDENT VALESKY:  
20      Senator Nozzolio, on the bill.

21                  SENATOR NOZZOLIO:     Mr. President,  
22      this bill is a good bill. It's an outgrowth  
23      of the Structured Settlement Protection Act of  
24      2002.

25                  Senator DeFrancisco has in the past

1       been involved in many of these measures to  
2       make this process more efficient.

3               Senator Sampson's explanations  
4       regarding the appropriateness of an  
5       appearance, particularly for counsel to appear  
6       through other means other than by physical  
7       appearance, is extremely important to the good  
8       functioning of this process, and I thank the  
9       Senator for his clarifications.

10              Thank you, Mr. President.

11              ACTING PRESIDENT VALESKY:     Thank  
12       you, Senator Nozzolio.

13              Are there any other Senators who  
14       wish to be heard?

15              Seeing none, the debate is closed.

16              The Secretary will ring the bells.

17              The Secretary will read the last  
18       section.

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

21              ACTING PRESIDENT VALESKY:     Call  
22       the roll.

23              (The Secretary called the roll.)

24              ACTING PRESIDENT VALESKY:  
25       Senator DeFrancisco, to explain his vote.

1                   SENATOR DeFRANCISCO:     I'm going  
2     to vote aye. I think this is a clear showing  
3     of the bipartisan nature of this body, where  
4     we both can share authorship of an excellent  
5     piece of legislation.

6                   And it hopefully can unanimously  
7     pass, for the benefit of the bar but, more  
8     importantly, for the individuals that are  
9     involved in structured settlements.

10                  Thank you.

11                  ACTING PRESIDENT VALESKY:  
12     Senator DeFrancisco to be recorded in the  
13     affirmative.

14                  Announce the results.

15                  THE SECRETARY:     Ayes, 61. Nays,  
16     0.

17                  ACTING PRESIDENT VALESKY:     The  
18     bill is passed.

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

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

23                  ACTING PRESIDENT VALESKY:     The  
24     desk is clear.

25                  SENATOR KLEIN:     There being no

1 further business, Mr. President, I move that  
2 we adjourn until Monday, April 26th, at  
3 3:00 p.m., intervening days to be legislative  
4 days.

5 ACTING PRESIDENT VALESKY: On  
6 motion, the Senate stands adjourned until  
7 Monday, April 26th, at 3:00 p.m., intervening  
8 days being legislative days.

9 (Whereupon, at 12:19 p.m., the  
10 Senate adjourned.)  
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