NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 21, 2010

11:56 a.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 please 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, Tuesday, April 20, the Senate met pursuant to adjournment. The Journal of Monday, April 19, 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 Parker, on page number 18 I offer the following amendments to Calendar Number 298, Senate Print Number 3601B, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT VALESKY: So ordered.

Senator Klein.

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

ACTING PRESIDENT VALESKY: The Secretary will read the substitutions.

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

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

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

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

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

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

On page 4, Senator Savino moves to

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

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

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

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

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

On page 25, Senator Espada moves to

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

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

ACTING PRESIDENT VALESKY: Substitutions ordered.

Senator Klein.

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

(Applause.)

ACTING PRESIDENT VALESKY: Happy birthday, Senator Johnson.

Senator Klein.

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

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

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

ACTING PRESIDENT VALESKY: The Secretary will read.

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

ACTING PRESIDENT VALESKY: 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 Klein.

SENATOR KLEIN: Mr. President, at

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

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

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

SENATOR KLEIN: Lay the bill aside for the day.

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

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

ACTING PRESIDENT VALESKY: Read the last section.

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

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 278, by Senator Oppenheimer --

SENATOR KLEIN: Lay the bill aside for the day.

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

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

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

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

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 295, by Senator Sampson --

SENATOR LIBOUS: Lay it aside, please.

ACTING PRESIDENT VALESKY: The bill is laid aside.

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

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, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

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

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

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

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

SENATOR LIBOUS: Explanation.

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

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

First, let me thank you for recognizing me.

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

Do you have any more questions on it?

SENATOR LIBOUS: Read the last section.

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

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

There is a home-rule message at the desk.

The Secretary will read the last section.

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

Senator Klein.

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

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

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

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

SENATOR LIBOUS: Explanation.

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

SENATOR SAMPSON: Thank you, Mr. President.

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

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

ACTING PRESIDENT VALESKY: Thank you, Senator Sampson.

Senator Nozzolio.

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

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

from Senator Nozzolio?

SENATOR SAMPSON: Yes, I will.

ACTING PRESIDENT VALESKY: The Senator yields.

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

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

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

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

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

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

ACTING PRESIDENT VALESKY:

Senator Sampson, do you continue to yield?

SENATOR SAMPSON: Yes, I do.

ACTING PRESIDENT VALESKY: The sponsor yields.

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

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

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

SENATOR NOZZOLIO: Thank you, Senator.

Thank you, Mr. President. On the bill.

ACTING PRESIDENT VALESKY:

Senator Nozzolio, on the bill.

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

Senator DeFrancisco has in the past

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

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

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Nozzolio.

Are there any other Senators who wish to be heard?

Seeing none, the debate is closed.

The Secretary will ring the bells.

The Secretary will read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

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

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

Thank you.

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

Announce the results.

THE SECRETARY: 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: The desk is clear.

SENATOR KLEIN: There being no

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

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

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