NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 27, 2010

3:43 p.m.

REGULAR SESSION

SENATOR NEIL D. BRESLIN, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

I ask all to rise and repeat with me the Pledge of Allegiance.

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

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

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

ACTING PRESIDENT BRESLIN: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Wednesday, May 26, the Senate met pursuant to adjournment. The Journal of Tuesday, May 25, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT BRESLIN: 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 Schneiderman, on page number 19 I offer the following amendments to Calendar Number 336, Senate Print Number 7141, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: 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 BRESLIN: Senator Klein, there are substitutions at the desk.

The Secretary will read.

THE SECRETARY: On page 20,

Senator Volker moves to discharge, from the Committee on Judiciary, Assembly Bill Number 9070A and substitute it for the identical Senate Bill Number 7170A, Third Reading Calendar 344.

On page 33, Senator C. Kruger moves to discharge, from the Committee on Finance, Assembly Bill Number 8556A and substitute it for the identical Senate Bill Number 5710A, Third Reading Calendar 563.

On page 33, Senator Sampson moves to discharge, from the Committee on Judiciary, Assembly Bill Number 8392C and substitute it for the identical Senate Bill Number 7288A, Third Reading Calendar 572.

On page 35, Senator Hassell-Thompson moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 8952 and substitute it for the identical Senate Bill Number 5570A, Third Reading Calendar 589.

On page 37, Senator Squadron moves to discharge, from the Committee on Housing, Construction and Community Development, Assembly Bill Number 620 and substitute it for

the identical Senate Bill Number 4403, Third Reading Calendar 605.

On page 37, Senator Klein moves to discharge, from the Committee on Codes, Assembly Bill Number 5823 and substitute it for the identical Senate Bill Number 1901, Third Reading Calendar 611.

On page 38, Senator Sampson moves to discharge, from the Committee on Codes, Assembly Bill Number 7569A and substitute it for the identical Senate Bill Number 4532A, Third Reading Calendar 612.

And on page 38, Senator Sampson moves to discharge, from the Committee on Codes, Assembly Bill Number 8393A and substitute it for the identical Senate Bill Number 5696A, Third Reading Calendar 613.

ACTING PRESIDENT BRESLIN: Substitutions ordered.

Senator Klein.

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

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: Calendar Number 106, by Senator Klein, Senate Print 6343A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 415, by Senator Schneiderman, Senate Print 4394A, an act to amend the Penal Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 90th day.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I'm going to vote no. I've done this many times. I think we did it a couple of days ago on one of Senator Parker's bills to protect sanitation workers of some type.

The whole purpose of this bill is to add sanitation workers to the protected class, like police officers and firemen, which will increase an assault to a higher degree because of the status of the individual.

I certainly have no problem giving special protection to sanitation workers, but I have a difficult time figuring out how sanitation workers or code enforcement officers or housing inspectors or any other inspector has a less dangerous job than sanitation workers.

So once again, I think these bills are basically to pander to a certain group rather than have any logic behind who the special class is that we're trying to give special protection for.

So I'm going to vote no.

ACTING PRESIDENT BRESLIN: Senator DeFrancisco to be recorded in the negative.

Senator Volker, to explain his vote.

SENATOR VOLKER: You know, I agree with Senator DeFrancisco in many ways, and having sponsored some of these bills.

But I have to explain why these bills happen. And the answer to a certain extent is because for almost a decade, as chairman of Codes, I tried to convince the Assembly to upgrade assault penalties to a degree that seemed responsible and -- well, responsible.

Unfortunately, the Assembly refused to do it. At one time I had like eight or nine assault bills on the agenda that would gradually upgrade penalties to deal with the severity of the assault, the -- in some ways, the people, because they were the most likely to be assaulted.

Unfortunately, the Assembly has taken the attitude -- for instance, if you make it an E felony, why, then, the judge will

let it be pleaded down to A misdemeanor where it's now an A misdemeanor. And those defense attorneys don't want it an A misdemeanor, they want to be able to get it down to a B misdemeanor because of their clients.

So the truth is that assault is one of the most undervalued statutes as a statute in the entire penal code. And I personally think it's ridiculous that people who are involved in some severe assaults are punished very minorly because the Assembly has people -- and has for years -- that just do not want to take any chances on somebody going to jail for assaulting. Unless it's somebody who's a higher-profile person or something of that nature.

So I agree with my colleague that this is kind of silly, except that the reason, John, that this happens is because the Assembly has refused for years to deal with the issue of assault.

I vote aye.

ACTING PRESIDENT BRESLIN: Senator Volker will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 415 are Senators DeFrancisco, Little and Ranzenhofer.

Ayes, 52. Nays, 3.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 461, by Member of the Assembly Ortiz, Assembly Print Number 6453A, an act to amend the Education Law and the Public Health Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 54. Nays, 1. Senator Ranzenhofer recorded in the negative.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 482, by Member of --

SENATOR KLEIN: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 501, by Member of the Assembly Meng, Assembly Print Number 9220A, an act to amend the Penal Law and the Executive Law.

ACTING PRESIDENT BRESLIN: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of November.

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 502, by Senator Valesky, Senate Print 2622, an

act to amend the Environmental Conservation Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 513, by Senator Espada, Senate Print 7421, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN:

Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 516, by Member of the Assembly Magee, Assembly Print Number 10556, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 517, by Senator --

SENATOR KLEIN: Lay the bill aside for the day, please.

ACTING PRESIDENT BRESLIN: The

bill is laid aside for the day.

THE SECRETARY: Calendar Number 519, by Senator Squadron, Senate Print 5283, an act to amend the Tax Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 521, by Senator Foley, Senate Print 5800, an act to amend the Education Law.

ACTING PRESIDENT BRESLIN: Read the last section.

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

ACTING PRESIDENT BRESLIN: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BRESLIN: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT BRESLIN: The bill is passed.

THE SECRETARY: Calendar Number 532, by Member --

SENATOR KLEIN: Lay the bill aside for the day, please.

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

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

SENATOR KLEIN: Mr. President, can we please stand at ease.

ACTING PRESIDENT BRESLIN: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:54 p.m.)

(Whereupon, the Senate reconvened at 4:41 p.m.)

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein.

SENATOR KLEIN: Mr. President, is

there any further business at the desk?

ACTING PRESIDENT CRAIG JOHNSON: Senator Klein, the desk is clear.

SENATOR KLEIN: Can you please recognize Senator Libous for a brief announcement.

ACTING PRESIDENT CRAIG JOHNSON: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

There will be a brief Republican conference immediately following session.

ACTING PRESIDENT CRAIG JOHNSON: There will be a brief Republican conference immediately following session in the Republican Conference Room.

Senator Klein.

SENATOR KLEIN: Mr. President, there being no further business at the desk, I move that we adjourn until Friday, May 28th, at 9:00 a.m.

ACTING PRESIDENT CRAIG JOHNSON: There being no further business to come before the Senate, on motion, the Senate stands adjourned until Friday, May 28th, at 9:00 a.m.

(Whereupon, at 4:42 p.m., the Senate adjourned.)