

1 NEW YORK STATE SENATE

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3
4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 May 27, 2010

11 3:43 p.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 all to rise and repeat with
5 me the Pledge of Allegiance.

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

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

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

13 ACTING PRESIDENT BRESLIN: The
14 reading of the Journal.

15 The Secretary will read.

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

21 ACTING PRESIDENT BRESLIN:
22 Without objection, the Journal stands approved
23 as read.

24 Presentation of petitions.

25 Messages from the Assembly.

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

6 Motions and resolutions.

7 Senator Klein.

8 SENATOR KLEIN: Mr. President, on
9 behalf of Senator Schneiderman, on page number
10 19 I offer the following amendments to
11 Calendar Number 336, Senate Print Number 7141,
12 and ask that said bill retain its place on
13 Third Reading Calendar.

14 ACTING PRESIDENT BRESLIN: So
15 ordered.

16 Senator Klein.

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

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

24 The Secretary will read.

25 THE SECRETARY: On page 20,

1 Senator Volker moves to discharge, from the
2 Committee on Judiciary, Assembly Bill Number
3 9070A and substitute it for the identical
4 Senate Bill Number 7170A, Third Reading
5 Calendar 344.

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

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

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

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

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

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

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

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

18 ACTING PRESIDENT BRESLIN:
19 Substitutions ordered.

20 Senator Klein.

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

24 ACTING PRESIDENT BRESLIN: The
25 Secretary will read.

1 THE SECRETARY: Calendar Number
2 106, by Senator Klein, Senate Print 6343A, an
3 act to amend the Agriculture and Markets Law.

4 ACTING PRESIDENT BRESLIN: Read
5 the last section.

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

8 ACTING PRESIDENT BRESLIN: Call
9 the roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BRESLIN:
12 Announce the results.

13 THE SECRETARY: Ayes, 52.

14 ACTING PRESIDENT BRESLIN: The
15 bill is passed.

16 THE SECRETARY: Calendar Number
17 415, by Senator Schneiderman, Senate Print
18 4394A, an act to amend the Penal Law.

19 ACTING PRESIDENT BRESLIN: Read
20 the last section.

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

23 ACTING PRESIDENT BRESLIN: Call
24 the roll.

25 (The Secretary called the roll.)

1 ACTING PRESIDENT BRESLIN:

2 Senator DeFrancisco, to explain his vote.

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

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

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

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

25 So I'm going to vote no.

1 ACTING PRESIDENT BRESLIN:

2 Senator DeFrancisco to be recorded in the
3 negative.

4 Senator Volker, to explain his
5 vote.

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

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

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

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

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

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

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

22 I vote aye.

23 ACTING PRESIDENT BRESLIN:

24 Senator Volker will be recorded in the
25 affirmative.

1 Announce the results.

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

5 Ayes, 52. Nays, 3.

6 ACTING PRESIDENT BRESLIN: The
7 bill is passed.

8 THE SECRETARY: Calendar Number
9 461, by Member of the Assembly Ortiz, Assembly
10 Print Number 6453A, an act to amend the
11 Education Law and the Public Health Law.

12 ACTING PRESIDENT BRESLIN: Read
13 the last section.

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

16 ACTING PRESIDENT BRESLIN: Call
17 the roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT BRESLIN:
20 Announce the results.

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

24 ACTING PRESIDENT BRESLIN: The
25 bill is passed.

1 THE SECRETARY: Calendar Number
2 482, by Member of --

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

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

7 THE SECRETARY: Calendar Number
8 501, by Member of the Assembly Meng, Assembly
9 Print Number 9220A, an act to amend the Penal
10 Law and the Executive Law.

11 ACTING PRESIDENT BRESLIN: Read
12 the last section.

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

16 ACTING PRESIDENT BRESLIN: Call
17 the roll.

18 (The Secretary called the roll.)

19 ACTING PRESIDENT BRESLIN:
20 Announce the results.

21 THE SECRETARY: Ayes, 55.

22 ACTING PRESIDENT BRESLIN: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 502, by Senator Valesky, Senate Print 2622, an

1 act to amend the Environmental Conservation
2 Law.

3 ACTING PRESIDENT BRESLIN: Read
4 the last section.

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

7 ACTING PRESIDENT BRESLIN: Call
8 the roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT BRESLIN:
11 Announce the results.

12 THE SECRETARY: Ayes, 55.

13 ACTING PRESIDENT BRESLIN: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 513, by Senator Espada, Senate Print 7421, an
17 act to amend the Private Housing Finance Law.

18 ACTING PRESIDENT BRESLIN: Read
19 the last section.

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

22 ACTING PRESIDENT BRESLIN: Call
23 the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT BRESLIN:

1 Announce the results.

2 THE SECRETARY: Ayes, 55.

3 ACTING PRESIDENT BRESLIN: The
4 bill is passed.

5 THE SECRETARY: Calendar Number
6 516, by Member of the Assembly Magee, Assembly
7 Print Number 10556, an act to amend the
8 Agriculture and Markets Law.

9 ACTING PRESIDENT BRESLIN: Read
10 the last section.

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

13 ACTING PRESIDENT BRESLIN: Call
14 the roll.

15 (The Secretary called the roll.)

16 ACTING PRESIDENT BRESLIN:
17 Announce the results.

18 THE SECRETARY: Ayes, 55.

19 ACTING PRESIDENT BRESLIN: The
20 bill is passed.

21 THE SECRETARY: Calendar Number
22 517, by Senator --

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

25 ACTING PRESIDENT BRESLIN: The

1 bill is laid aside for the day.

2 THE SECRETARY: Calendar Number
3 519, by Senator Squadron, Senate Print 5283,
4 an act to amend the Tax Law.

5 ACTING PRESIDENT BRESLIN: Read
6 the last section.

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

9 ACTING PRESIDENT BRESLIN: Call
10 the roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT BRESLIN:
13 Announce the results.

14 THE SECRETARY: Ayes, 55.

15 ACTING PRESIDENT BRESLIN: The
16 bill is passed.

17 THE SECRETARY: Calendar Number
18 521, by Senator Foley, Senate Print 5800, an
19 act to amend the Education Law.

20 ACTING PRESIDENT BRESLIN: Read
21 the last section.

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

24 ACTING PRESIDENT BRESLIN: Call
25 the roll.

1 (The Secretary called the roll.)

2 ACTING PRESIDENT BRESLIN:

3 Announce the results.

4 THE SECRETARY: Ayes, 55.

5 ACTING PRESIDENT BRESLIN: The
6 bill is passed.

7 THE SECRETARY: Calendar Number
8 532, by Member --

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

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

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

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

17 ACTING PRESIDENT BRESLIN: The
18 Senate will stand at ease.

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

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

23 ACTING PRESIDENT CRAIG JOHNSON:
24 Senator Klein.

25 SENATOR KLEIN: Mr. President, is

1 there any further business at the desk?

2 ACTING PRESIDENT CRAIG JOHNSON:

3 Senator Klein, the desk is clear.

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

7 ACTING PRESIDENT CRAIG JOHNSON:

8 Senator Libous.

9 SENATOR LIBOUS: Thank you,
10 Mr. President.

11 There will be a brief Republican
12 conference immediately following session.

13 ACTING PRESIDENT CRAIG JOHNSON:

14 There will be a brief Republican conference
15 immediately following session in the
16 Republican Conference Room.

17 Senator Klein.

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

22 ACTING PRESIDENT CRAIG JOHNSON:

23 There being no further business to come before
24 the Senate, on motion, the Senate stands
25 adjourned until Friday, May 28th, at 9:00 a.m.

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