NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 10, 2010

12:01 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 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, Wednesday, June 9, the Senate met pursuant to adjournment. The Journal of Tuesday, June 8, 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: Thank you, Mr. President.

First, on behalf of Senator Parker, on page number 40 I offer the following amendments to Calendar Number 518, Senate Print Number 4291A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT VALESKY: The amendments are received.

SENATOR KLEIN: On behalf of Senator Craig Johnson, on page 38 I offer the following amendments to Calendar Number 481, Senate Print Number 6309A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT VALESKY: Amendments received.

SENATOR KLEIN: Mr. President, on behalf of Senator Craig Johnson, I wish to call up Print Number 7366, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: Calendar Number 421, by Senator C. Johnson, Senate Print 7366, an act to amend the Real Property Tax Law.

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT VALESKY: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

SENATOR KLEIN: I now offer the following amendments.

ACTING PRESIDENT VALESKY: The amendments are received.

SENATOR KLEIN: Mr. President, on behalf of Senator Huntley, I wish to call up

Print Number 3119B, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: Calendar Number 329, by Senator Huntley, Senate Print 3119B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT VALESKY: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, I now offer the following amendments.

ACTING PRESIDENT VALESKY: The amendments are received.

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: There are substitutions at the desk.

The Secretary will read.

THE SECRETARY: On page 36, Senator Valesky moves to discharge, from the Committee on Codes, Assembly Bill Number 2257B and substitute it for the identical Senate Bill Number 1606B, Third Reading Calendar 414.

On page 54, Senator Onorato moves to discharge, from the Committee on Labor, Assembly Bill Number 10126 and substitute it for the identical Senate Bill Number 7808, Third Reading Calendar 744.

And on page 54, Senator Sampson moves to discharge, from the Committee on Insurance, Assembly Bill Number 4916 and substitute it for the identical Senate Bill Number 4651, Third Reading Calendar 748.

ACTING PRESIDENT VALESKY: Substitutions ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, I

believe Senator Sampson has a resolution at the desk. 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 Sampson, legislative resolution memorializing Governor David A. Paterson to proclaim June 13 through 20, 2010, as Men's Health Awareness Week in the State of New York.

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

Senator Klein.

SENATOR KLEIN: Mr. President, I believe Senator Breslin has a resolution at the desk. I ask that the resolution be read in its entirety 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, Mr. President.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: By Senator Breslin, legislative resolution commemorating the 20th anniversary of the enactment of the Americans with Disabilities Act of 1990.

"WHEREAS, Upon adoption of the Americans with Disabilities Act of 1990, over

54 million Americans living with disabilities were afforded broad protection against discrimination; and

"WHEREAS, Before such time, Americans living with disabilities faced overwhelming barriers to employment, transportation, public accommodations, public services, and equal rights under the law; and

"WHEREAS, Such barriers to the freedom of full participation in society imposed staggering economic and social costs on American society and undermined both our efforts to educate, rehabilitate, and employ individuals with disabilities, as well as America's bedrock principles of fairness and justice; and

"WHEREAS, In the face of such injustice, we honored our fundamental moral obligation to support and defend the most vulnerable to discrimination and mistreatment; and

"WHEREAS, The Americans with Disabilities Act represented a giant leap forward in empowering America's disabled population to more fully participate in

society on equal footing and expanded freedom of opportunity to all Americans bravely living with disabilities; and

"WHEREAS, The Americans with Disabilities Act established firm protections in the workplace, prohibiting discrimination in all employment practices, including job application procedures, hiring, firing, advancement, compensation, training and other terms, conditions and privileges of employment; and

"WHEREAS, The Americans with Disabilities Act ensured that no individual may be discriminated against on the basis of disability with regards to the full and equal enjoyment of the goods, services, facilities or accommodations of any place of public accommodation, including lodging, recreation, transportation, education and dining establishments; and

"WHEREAS, By affording such protections, we enabled society to benefit from the skills and talents of individuals with disabilities and have made progress to fuller, more productive lives for all

Americans; now, therefore, be it

"RESOLVED, That this legislative body pause in its deliberations to commemorate the 20th anniversary of the enactment of the Americans with Disabilities Act of 1990; and be it further

"RESOLVED, That our commitment to New York's brave and enduring disabled population is reaffirmed and strengthened in the face of all that remains to be done to more fully realize the goals of equal opportunity, full participation, independent living, and economic self-sufficiency for those living with disabilities."

ACTING PRESIDENT VALESKY: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

Today we celebrate the anniversary, the 20th anniversary of the Americans with Disabilities Act. It's hard to believe that twenty years have passed. But it's probably the most important piece of nondiscrimination legislation other than the Civil Rights Act in the last 70 years.

As the resolution points out, it protects against discrimination in employment, public services, transportation, telecommunications, and on and on and on. But it's a living document. And compliance with the ADA is never, ever complete. There's still many, many obstacles, including but not limited to areas of employment, wages. Education gaps also still exist.

And it's up to the Legislature to recognize that compliance with the ADA is never complete. And it is hoped with this package of bills today that these bills will help improve the quality of life for those 2.1 million New Yorkers who suffer with disabilities, and that this package will be an important component in making their lives better.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Breslin.

Senator Libous, on the resolution.

SENATOR LIBOUS: Thank you, Mr. President. I want to join my colleague Senator Breslin on this resolution.

As this chamber knows, I have dedicated a number of years of my career in this chamber, along with my colleagues, in promoting many major pieces of legislation to help people with intellectual and physical disabilities.

And certainly the Americans with Disabilities Act, when it was passed, was just a huge step forward for people in this country and certainly this state that have intellectual and physical disabilities.

We in this chamber have been extremely progressive and been very proud, every one of my colleagues, over the course of the last several years in promoting those issues that help people with intellectual and physical disabilities.

And today is a good day that we can stand here, Senator Breslin, and talk on this resolution on a very, very important movement that took place in this country. But as Senator Breslin said, every day we must continue, not only in this house but in our own districts, promoting the welfare and helping those people with intellectual and

physical disabilities.

So, Mr. President, I'm extremely proud to stand here with all of my colleagues -- Senator Breslin in particular, as the sponsor -- and promoting or at least talking about what this country and this state has promoted for people with disabilities.

ACTING PRESIDENT VALESKY: Thank you, Senator Libous.

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

Senator Klein.

SENATOR KLEIN: Mr. President, I believe Senator Andrea Stewart-Cousins has a resolution at the desk. 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 Stewart-Cousins, legislative resolution celebrating the hard work and achievement of the independent living movement over the past several decades.

ACTING PRESIDENT VALESKY: Senator Stewart-Cousins, on the resolution.

SENATOR STEWART-COUSINS: Thank you, Mr. President.

I rise and join with my colleagues in celebrating this day where we are acknowledging the progress not only in the country, but within the state, of legislatures who understand the unique challenges that are faced by those with disabilities.

The Independent Living Centers, however, is an extension of that. We talk about what we do, but we know that as government we're limited. We know that we can't do everything. In New York State, we decided to fund Independent Living Centers in 1982. And what has happened is that which we wish to get done has been part and parcel of what Independent Living Centers do for those who are disabled. They offer peer counseling, they offer help in employment, in housing, in ways to live integrated in the community for those who otherwise might have to be institutionalized.

It gives the -- Mr. President, can I ask for some order? Thank you. I appreciate that. I think this is too important really not to give our full attention to.

Again, the Independent Living Centers in New York -- and there's 36 of them -- have helped thousands to stay in their homes, to be integrated in our society, to be able to contribute as all of us want to contribute to making our places a better place

to be.

So today, as we pass our disability package, as we move forward in our commitment to making sure there is access, there are opportunities for our disabled community -- realizing that in any given day, any one of us could be part of that which is called the largest minority, and realizing our responsibility and our partnership with Independent Living Centers.

So I certainly thank you for your attention.

ACTING PRESIDENT VALESKY: Thank you, Senator Stewart-Cousins.

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 Stewart-Cousins has asked that it be open for cosponsorship. Any Senator wishing not to cosponsor the

resolution should notify the desk.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe Senator Hassell-Thompson has a resolution at the desk. 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 Hassell-Thompson, legislative resolution commending Evelyn Ruth Walker Copeland upon the occasion of receiving the Humanitarian Award from the Women's Welfare Club of Mt. Vernon.

ACTING PRESIDENT VALESKY: Senator Hassell-Thompson, on the resolution.

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

Several weeks ago this extraordinary lady's child was being honored in this chamber, and apples don't fall far from the tree. She's a deacon. She's one of the few women within the Baptist Church who has been ordained as a full deacon, not a deaconess.

The work that she does for her entire community is so well felt and so well sweeping that suddenly she is the subject of awards all over the place. It gives me great honor to join with them as they celebrate her tonight, and others who have done extraordinary community work.

It's very interesting that those who seem to have so little feel so obligated to do so much. She's not famous and doesn't wish to be, and yet she's very famous for the work and the care that she provides to people in her own city, the many years that she has served on the Daycare Council in Westchester, for those children whose parents had to work and to ensure that the environment in which those children reside, in the absence of being at home, that they're safe, that the quality

of the service that is given to those children is tremendous.

And the teaching that she is responsible for for assisting those who have home daycare licenses to ensure that not only are the homes safe, that the environment meets the standards of licensure, but she helps to elevate the level of training that these providers receive and works with families to ensure that they don't just dump their children but that they have expectations that are realistic and participatory by parents.

And so for a variety of acts of kindness, as well as her vocation, I am pleased to ask my colleagues to join me in this resolution on behalf of a very worthy woman.

I thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Hassell-Thompson.

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, I believe Senator Hassell-Thompson has another resolution at the desk. 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 Hassell-Thompson, legislative resolution commending Keith Collins upon the occasion of receiving the Business Award from the Women's Welfare Club of Mt. Vernon.

ACTING PRESIDENT VALESKY: Senator Hassell-Thompson, on the resolution.

SENATOR HASSELL-THOMPSON: So

that I don't spend an inordinate amount of time and prolong this, but to give due to those who deserve to be recognized, I would also like to ask my colleagues to support me in placing this resolution before this body commending Keith Collins, who is an extraordinary young man who's lived his life in the Bronx and, upon graduating from high school, has done military service with the United States Marines.

But besides his service to his country, his service to his church and to his community is outstanding. And so therefore, it gives me great pleasure to also resolve today in the name of Keith Collins.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Hassell-Thompson.

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, I believe Senator Nozzolio has a privileged resolution at the desk. 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 Nozzolio, legislative resolution congratulating Maxwell J. Skolnick upon the occasion of receiving the distinguished rank of Eagle Scout, the most prestigious of Scouting honors.

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, I believe there's another resolution by Senator Ruth Hassell-Thompson at the desk. 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 Hassell-Thompson, legislative resolution commending Robert J. Heyward upon the occasion of receiving the Community Service Award from the Women's Welfare Club of Mt. Vernon.

ACTING PRESIDENT VALESKY:

Senator Hassell-Thompson, on the resolution.

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

I again rise to give honor to Mr. Robert J. Heyward, as a long-time resident of New York State, who was born and raised in Harlem and educated in New York's Catholic schools, for his many years of service in the New York Police Department. And who, as part of the New York Narcotics Division on the United States Office of Drug Abuse and Law Enforcement, has done some extraordinary work since his retirement. And he pursues and is about to receive his juris doctorate from New York Law School.

What he proves is that no matter what you do in life, it's never too late to learn, to advance yourself and to develop yourself. But the wonderful thing is that with each advancement, he uses his new skills and talent and those things that he learns and the gifts that he has to make the world a better place.

And so I thank you, Mr. President, for the opportunity to recommend to this body

for consideration Mr. Robert J. Heyward.

ACTING PRESIDENT VALESKY: Thank you, Senator Hassell-Thompson.

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 calendar.

THE SECRETARY: Calendar Number 211, by Member of the Assembly Weinstein, Assembly Print Number 5707A, an act to amend the Election Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of December next succeeding.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 231, by Senator Oppenheimer, Senate Print 6776B, an act to amend the Education 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, 57.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 266, by Senator Dilan, Senate Print 5175B, an act to amend the Vehicle and Traffic 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, 57.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 364, by Senator C. Johnson, Senate Print 713A, an act to amend the General Business Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 60th day.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 403, by Member of the Assembly DelMonte, Assembly Print Number 8181, an act to amend

the Racing, Pari-Mutuel Wagering and Breeding 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.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 403 are Senators Golden, Larkin, Marcellino, Maziarz, and Ranzenhofer. Also Senator Saland.

Ayes, 52. Nays, 6.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 414, substituted earlier today by Member of the Assembly Stirpe, Assembly Print Number 2257B, an act to amend the Penal Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of November.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Golden recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 426, by Senator Huntley, Senate Print 6844A, an act to amend the General Municipal 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, 58.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 437, by Member of the Assembly Gottfried, Assembly Print Number 8498A, an act to amend

the Public Health 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, 58.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 440, by Member of the Assembly Paulin, Assembly Print Number 629, an act to amend the General Business 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, 58.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 452, by Member of the Assembly Cusick, Assembly Print Number 10771, an act to amend the Executive 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, 58.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 505, by Senator C. Johnson, Senate Print 4031A, an act in relation to authorizing the County of Nassau.

ACTING PRESIDENT VALESKY: There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 618, by Senator C. Johnson, Senate Print 7448A, an act to amend the Penal 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.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 618 are Senators LaValle, Marcellino and Ranzenhofer.

Ayes, 55. Nays, 3.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 623, by Senator Savino, Senate Print 5633A, an act to amend the Retirement and Social

Security 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, 58.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 624, by Senator Montgomery, Senate Print --

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

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

THE SECRETARY: Calendar Number 625, by Senator Montgomery, Senate Print 6713 --

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

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

THE SECRETARY: Calendar Number

632, by Senator Espada, Senate Print 7225, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

SENATOR LaVALLE: Lay it aside, please.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 643, by Senator Klein, Senate Print --

SENATOR LaVALLE: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 644, by Member of the Assembly Nolan, Assembly Print Number 10507A, an act to amend the Education 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.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 644 are Senators Griffo, Larkin, LaValle, Marcellino, and Young. Also Senator Nozzolio. Also Senator Ranzenhofer.

Ayes, 51. Nays 7.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 645, by Senator Oppenheimer --

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

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

THE SECRETARY: Calendar Number 647, by Member of the Assembly Paulin, Assembly Print Number 10676, an act to amend the Executive Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 647 are Senators Bonacic, DeFrancisco, Farley, Fuschillo, Golden, Griffo, O. Johnson, Lanza, Larkin, LaValle, Little, Maziarz, McDonald, Ranzenhofer, Skelos and Young. Also Senator Flanagan. Also Senator Leibell. Also Senator Saland. Also Senator Nozzolio.

Ayes, 38. Nays, 20.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 678, by Senator Smith, Senate Print 7898, an act to amend the Public Housing Law.

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.)

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

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

Let me first thank Senator Breslin for his resolution on the 20th anniversary of our Disabilities Act of 1990.

In that spirit, this particular bill says to individuals who are subject to wheelchairs or disabilities in public developments that we recognize the challenges that they face.

About a year ago in Far Rockaway, Queens, there was a fire where a young lady's life was taken away. The daughter, who was in a wheelchair, was severely burned. And we vowed then that we would take some action and respond as a state body. Today we are doing that, during this Disabilities Act celebration.

This particular bill will allow for anyone who disabled in public developments to have preference to be on the first floor of that public development should they choose to,

if in fact a particular apartment becomes available.

This bill provides recognition to those who are disabled that we recognize that the challenges that they face are challenges that we must respond to. And so with that, Mr. President, I am proud to vote yes for this bill.

Thank you very much.

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

Announce the results.

THE SECRETARY: Ayes, 60. Nays, 0.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 725, by Member of the Assembly Bing, Assembly Print Number --

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

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

THE SECRETARY: Calendar Number

743, by Member of the Assembly Destito, Assembly --

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

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

THE SECRETARY: Calendar Number 890, by Senator Duane, Senate Print 2933, an act to amend the Transportation Law and the Public Authorities 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, 60.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 891, by Senator Foley, Senate Print 6819, an act to amend the Executive Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2011.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

SENATOR HANNON: Yes, thank you, Mr. President.

While the goal of this bill is laudatory, I'm not so sure that the process by which it's implemented can be defended. I have asked whether there were hearings on this bill, hearings on this concept, whether there's reports. It is unclear the extent of which a local municipality zoning code would be overridden.

And for that reason and that doubt, I would vote in the negative.

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

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 891 are Senators Bonacic, DeFrancisco, Griffo, Hannon,

O. Johnson, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Nozzolio, Padavan, Ranzenhofer, Saland, Seward and Young. Also Senator Flanagan.

Ayes, 41. Nays, 18.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 938, by Member of the Assembly Schroeder, Assembly Print Number 10853B, an act to amend the Executive 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 939, by Member of the Assembly Bing, Assembly Print Number 9757, an act to amend the Public Housing Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

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 940, by Member of the Assembly Cahill, Assembly Print Number 10946, an act to amend the Election Law.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 15th of December.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 940 are

Senators --

SENATOR FARLEY: Mr. President, just to explain my vote.

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

SENATOR FARLEY: Just to explain my vote.

You know, this bill is on its face is a good bill, and one that we'd like to support, but in particular, in some of the rural areas, it makes it very, very difficult. They'd have to not vote in a place where they've been voting for years because they can't make it handicapped-accessible and so forth.

I'm going to vote no, but to protect -- I have a lot of rural areas where this could be quite difficult for them to rehabilitate the voting places.

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

Announce the results.

THE SECRETARY: In relation to Calendar Number 940, those Senators recorded in the negative are Farley, Flanagan,

O. Johnson, Little, Ranzenhofer and Seward.

Ayes, 54. Nays, 6.

ACTING PRESIDENT VALESKY: The bill is passed.

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

Senator Seward, why do you rise?

SENATOR SEWARD: Mr. President, I apologize for the interruption, but I was unavoidably out of the chamber when Calendar Number 364 passed, and I wish to be recorded in the negative, if that's possible.

ACTING PRESIDENT VALESKY: Calendar Number 364, that was?

SENATOR SEWARD: Yes. Thank you.

ACTING PRESIDENT VALESKY: With unanimous consent, Senator Seward to be recorded in the negative on Calendar Number 364.

Senator Klein.

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

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

controversial calendar.

The Secretary will ring the bells. Senators are asked to proceed to the chamber for the controversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 632, by Senator Espada, Senate Print 7225, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT VALESKY: Senator Hannon.

SENATOR HANNON: Yes, I wonder if the sponsor would yield.

ACTING PRESIDENT VALESKY: Senator Espada, Senator Hannon has asked you to yield to a question.

SENATOR ESPADA: Well, of course. Of course.

ACTING PRESIDENT VALESKY: The sponsor will yield.

SENATOR HANNON: Senator Espada, earlier today when I reviewed this I had asked if there was a memo from the City of New York, and at that point there was none available. I now have one, and it's dated today. But the memo itself simply repeats what's in your

sponsor's memo, so it doesn't add any more information.

So that's all by way of preliminary. But since we're adding one-plus billion dollars of borrowing authority, I just wondered if there was more detail as to which of the programs this bonding authority would be used for and which of the programs that are referred to in the memo, but not specified, that are the other initiatives might be the ones that would add to this borrowing authority.

SENATOR ESPADA: Well, of course, Senator Hannon.

The programs are basically three programs run by HDC. These programs are the Low-Income Affordable Marketplace Program, the New Hope New Housing Opportunities Program and the Mitchell-Lama program.

And I hasten to add that while this is nothing new, as of 2005 we continued to build tens of thousands of units of affordable housing, in this climate that we're in, the exponential impact is all positive in that there's also economic development and jobs

included. And there's a huge pipeline of projects that await this financing.

SENATOR HANNON: Could the door be closed behind Senator Espada? Because there's people coming in, and there's a lot of noise.

ACTING PRESIDENT VALESKY: Will the sergeants please close the doors behind Senator Espada so it's easier for all of us to hear.

Senator Hannon.

SENATOR HANNON: No, I have no --

SENATOR ESPADA: That's my explanation. That's my answer.

SENATOR HANNON: Thank you very much. Appreciate it. Thank you, Senator.

SENATOR ESPADA: Thank you, Senator Hannon.

ACTING PRESIDENT VALESKY: Are there any other Senators wishing to speak?

Seeing none, the debate is closed. The Secretary will ring the bells. Senators are asked to proceed to the chamber for the roll call.

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: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 632 are Senators DeFrancisco, Flanagan, Griffo, O. Johnson, Larkin, LaValle, Libous, Marcellino, Ranzenhofer, Robach, Seward and Skelos.

Absent from voting: Senators Diaz, Dilan, Perkins, Schneiderman, Volker and Winner.

Ayes, 43. Nays, 12.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 643, by Senator Klein, Senate Print 1884A, an act to amend the Education Law.

ACTING PRESIDENT VALESKY: Senator Padavan.

SENATOR PADAVAN: I just want to

ask a question.

ACTING PRESIDENT VALESKY: Senator Klein, do you yield to a question?

SENATOR KLEIN: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR PADAVAN: Let me preface my question, Senator Klein, by saying I well understand the laudable goal of your bill, to ensure that our youngsters have outdoor recreational facilities and that that should not be taken away from them in any irresponsible manner.

However, as you know, the City of New York has been going through and is well along the way in a $13 billion capital improvement program. Schools all over the City of New York are either being modernized -- some new schools being built, obviously, but many are being modernized, upgraded, additions, all kinds of things going on. If you travel around the city you see scaffolding on just about every other school you run by.

Now, there are occasions and places -- and I had one just two blocks from my office where they were doing a major renovation and there had to be a place where the contractors must store their equipment and material used in that renovation. There is no other playground in the area unless they put them on a bus and took them to the park. And for that period of time, a significant portion of the playground was not available to the children.

Now, the way I read your bill, even those circumstances would be precluded, if that's the way I read it. If I read it correctly, you'll tell me that. But if I've read it correctly, how do you deal with the real-life issue that I've just described?

SENATOR KLEIN: Through you, Mr. President, Senator Padavan raises a good point.

In my discussions with the city, if you notice on line 6 of the legislation, existing playgrounds shall not be sold, leased, or transferred or permanently authorized for other uses.

The example Senator Padavan gave of having a certain area with construction or construction debris wouldn't be permanent. So they would not, under my legislation, have to come up with a plan.

SENATOR PADAVAN: All right. So to clarify your answer, if I may, Senator.

If there's construction of some limited period of time -- obviously, they are limited -- then your bill would not come into effect.

SENATOR KLEIN: Correct.

SENATOR PADAVAN: Thank you, Senator.

SENATOR KLEIN: On the bill, Mr. President.

ACTING PRESIDENT VALESKY: Senator Klein, on the bill.

SENATOR KLEIN: This is an important piece of legislation which came out of two studies that my office conducted around the City of New York which showed unfortunately, in many cases, especially in minority communities, the lack of adequate playground space.

In many cases they're used by temporary classrooms. Even worse cases, they're used as parking lots, denying our young people the ability to exercise.

You know, there's a lot of talk about soda taxes and other fat taxes to reduce childhood obesity, which presently in the New York City area, 35 percent of our young people are obese or overweight.

I personally believe that the way to reduce childhood obesity is making sure that young people have adequate playground space and meaningful physical activity when they're at school.

So I am hopeful that when this legislation is passed into law, we can make sure that happens.

And I don't think it's too much to ask the Department of Education to make sure that if indeed they have a permanent usage which prevents kids from using their playground, that they make alternative arrangements, like taking the kids to a nearby park, maybe closing off the street for a couple of hours to traffic, to make sure, once

again, that our young people have meaningful outdoor physical activity.

So of course I support this legislation, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Klein.

Are there any other Senators who wish to be heard?

Seeing none, the debate is closed. The Secretary will ring the bells.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect July 1, 2011.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 0.

Absent from voting: Senators Diaz, Dilan, Perkins, Schneiderman, Volker and Winner.

ACTING PRESIDENT VALESKY: The bill is passed.

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

SENATOR KLEIN: Mr. President, can we please go to a reading of the supplemental active list.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of the supplemental active list.

THE SECRETARY: Calendar Number 369, by Senator Young, Senate Print 3417, an act to amend the Highway 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 508, by Senator Young, Senate Print 2437, an act to amend the Agriculture and Markets 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 602, by Member of the Assembly Rabbitt, Assembly Print Number 7774A, an act to authorize the Town of Ramapo.

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: In relation to Calendar Number 602: Ayes, 58. Nays, 2. Senators Bonacic and Larkin recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number

881, by Senator Leibell, Senate Print 7620, an act to authorize the Town of Kent.

ACTING PRESIDENT VALESKY: There is a home-rule message at the desk.

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.

Senator Klein, that completes the read of the supplemental active list.

SENATOR KLEIN: Mr. President, I just want to announce to the members that there will be a meeting of the Social Services Committee immediately following session.

ACTING PRESIDENT VALESKY: A meeting of the Social Services Committee immediately following session.

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 at the call of the Temporary President, intervening days to be legislative days.

ACTING PRESIDENT VALESKY: On motion, the Senate stands adjourned subject to the call of the Temporary President, intervening days being legislative days.

(Whereupon, at 1:05 p.m., the Senate adjourned.)