NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 18, 2009

3:16 p.m.

REGULAR SESSION

SENATOR ANDREA STEWART-COUSINS, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT STEWART-COUSINS: The Senate will please come to order.

I ask everyone present to rise and recite with me the Pledge of Allegiance to our Flag.

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

ACTING PRESIDENT STEWART-COUSINS: The invocation today will be delivered by Father Peter Young, of Mother Theresa Community here in Albany.

REVEREND YOUNG: Thank you, Senator. Let us pray.

By being a Senator, you have been accepted into the leadership position so that you can more fully serve the people of New York State.

In this spirit of community, our prayer today will be to better achieve the goal of dedicated representation in the power that is entrusted to all of our legislative leadership.

May you attain that. May God bless

you so that your satisfaction in your services will be there for your constituents in this Empire State.

Amen.

ACTING PRESIDENT STEWART-COUSINS: Thank you.

The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Tuesday, March 17, the Senate met pursuant to adjournment. The Journal of Monday, March 16, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT STEWART-COUSINS: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Senator Klein.

SENATOR KLEIN: Madam President, is there a report of the Finance Committee at the desk?

ACTING PRESIDENT STEWART-COUSINS: There is a report of the Finance Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator C. Kruger, from the Committee on Finance, reports the following nominations.

As a member of the New York Job Development Authority, Andrew J. Maniglia, of Valhalla.

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger.

SENATOR C. KRUGER: Move the nomination, please.

ACTING PRESIDENT STEWART-COUSINS: Are there any Senators that wish to be heard on this motion to confirm the nomination?

The question is on the motion to confirm the nomination of Andrew J. Maniglia, of Valhalla, to the New York Job Development Authority. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STEWART-COUSINS:

Opposed, nay.

(No response.)

ACTING PRESIDENT STEWART-COUSINS: The motion carries. The nomination of Andrew J. Maniglia is confirmed.

The Secretary will read.

THE SECRETARY: As a member of the State Camp Advisory Council, Patricia A. Skinner, of Niskayuna.

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger.

SENATOR C. KRUGER: Move the nomination, please.

ACTING PRESIDENT STEWART-COUSINS: Are there any Senators that wish to be heard on the motion to confirm this nominee?

SENATOR FARLEY: Yes, I'd like to second the nominee.

ACTING PRESIDENT STEWART-COUSINS: Senator Farley wishes to second the nomination.

SENATOR FARLEY: Yes.

ACTING PRESIDENT STEWART-COUSINS: Any other Senators wishing to be heard?

The question is on the motion to confirm the nomination of Patricia A. Skinner, of Niskayuna, to the State Camp Advisory Council. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STEWART-COUSINS: Opposed, nay.

(No response.)

ACTING PRESIDENT STEWART-COUSINS: The motion carries. The nomination is confirmed.

The Secretary will read.

THE SECRETARY: As members of the State Hospital Review and Planning Council, Robert M. Chur, of Clarence; Shelley B. Hirshberg, of Snyder; John Rugge, M.D., of Queensbury; and Louis B. Tehan, Jr., of Utica.

ACTING PRESIDENT STEWART-COUSINS: Senator Kruger.

SENATOR C. KRUGER: Move the nominations, please.

ACTING PRESIDENT STEWART-COUSINS: Are there any Senators that wish to be heard on the motion for these nominees?

The question is on the motion to confirm the nominations of Robert M. Chur, of Clarence; Shelley B. Hirshberg, of Snyder; John Rugge, M.D., of Queensbury; and Louis B. Tehan, Jr., of Utica, to the State Hospital Review and Planning Council. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STEWART-COUSINS: Opposed, nay.

(No response.)

ACTING PRESIDENT STEWART-COUSINS: The nominations are confirmed.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Klein.

SENATOR KLEIN: Madam President, at this time can we take up the reading of Senate Calendar 23.

ACTING PRESIDENT STEWART-COUSINS: The Secretary will read.

THE SECRETARY: Calendar Number

104, Senator Savino, Senate Print 2342, an act to amend Chapter 729 of the Laws of 1994 relating to affecting the health insurance benefits.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

THE SECRETARY: Section 2. This act shall take effect May 15, 2009.

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT STEWART-COUSINS: Senator Farley, to explain your vote.

SENATOR FARLEY: Thank you, Madam President.

I do rise in support of this legislation. It's a very significant piece of legislation. I know it well; I passed it 14 years in a row.

And it's something that should be made permanent, to be frank with you. It allows the teachers in school districts, that they would retain their health insurance after they retire unless they differ or do it for

everybody else. They can change it, but they'd have to change it for everyone.

This has always been a major priority of NYSUT, a major priority of teachers. There's nothing more important, in my judgment, to the retired people than their health insurance.

And consequently, I rise in support of this bill, which I know quite well.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator Farley.

Is there any other Senator wishing to explain his or her vote?

The Secretary will announce the results.

THE SECRETARY: Ayes, 59. Nays, 0.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 105, by Senator Valesky, Senate Print 2623, an act to amend the Alcoholic Beverage Control

Law, in relation to permitting.

ACTING PRESIDENT STEWART-COUSINS: Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

SENATOR SEWARD: Madam President, to explain my vote.

ACTING PRESIDENT STEWART-COUSINS: Senator Seward, to explain his vote.

SENATOR SEWARD: Thank you, Madam President.

I rise in support of this legislation. It's a very good piece of legislation because it will assist our various microbreweries around the state by authorizing them on a limited basis to sell beer at fairs and farmers' markets and those types of settings.

It's geared right toward our smaller producers. I have a number of microbrewers in my district, and this will be

helpful to them to promote their products where people gather at our various fairs, farmers' markets, and settings such as that. Our wineries have that opportunity, and this will put our microbreweries on equal footing.

As I read the bill in preparation for today's session, I found the words very, very familiar to me as well, because since 2001 I have carried this legislation, identical legislation for the last eight years.

And there's an old expression that says imitation is the sincerest form of flattery, and I'm deeply flattered.

I vote aye, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator Seward.

Senator Farley, to explain his vote.

SENATOR FARLEY: As an aside, I just want to rise and say I also support this.

But going back in history, which I've been around here for a long time, I passed legislation to establish the

microbreweries, which have been very, very successful in this state and something that, generally speaking, the beer-drinking people has enjoyed. And the microbreweries have been a success, particularly in many areas upstate.

ACTING PRESIDENT STEWART-COUSINS: Senator Valesky, to explain his vote.

SENATOR VALESKY: Thank you, Madam President. I rise to explain my vote in support of this legislation.

Senator Seward certainly has articulated the reasons behind it and the importance of it. I would just, for the record, acknowledge his many years of work on this issue. I appreciate his support.

And certainly the microbreweries in Senator Seward's district and around the State of New York, should the Assembly approve this bill and it become law, will be the beneficiaries.

I vote in the affirmative. Thank you.

ACTING PRESIDENT STEWART-COUSINS: Are there any other Senators wishing to speak?

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I rise to congratulate Senator Valesky and all the others who have worked on this.

I just want to say, as a part of the "One New York" theme of our conference, our constituents in New York City are much more conscious than they ever have been about trying to use local agriculture, conscious about health.

And the idea of working with our own agricultural sector in New York State to bring more products to the people in our cities I think is a great idea. And this is one step. And it's always good to start out with an easy sell, so I congratulate Senator Valesky for picking beer to start this process.

But it is really a part of a broader vision for our agricultural sector to work with the people in the cities for us to have healthier food, for us to promote

New York State agriculture. It's a win-win for everyone, and I'm very proud to be supporting this bill.

Thank you, Madam President.

ACTING PRESIDENT STEWART-COUSINS: Thank you, Senator Schneiderman.

Senator Robach, to explain his vote.

SENATOR ROBACH: Yes, I am very happy to support this bill. And I hope it will get passed in the other house and become law.

And I would just also, while we're congratulating each other, hope that in a related topic, too, these breweries -- homemade products in New York State are critically important. As we go forward with the budget, I hope for this same group of people, brewers, we will also take off the proposed increased tax, 400 percent increased tax, from 18 cents to some huge dollar amount that the Governor is proposing to tax beer and brewed products like hard liquor and alcohol.

That will virtually put this

industry out of business and make this great legislation by my colleague, Mr. Valesky, somewhat of a moot point.

And I know for Genesee Brewery, who does both micro, large-scale and contract brewing, it would affect them dramatically.

So let's stay on this path and not only help the smaller microbreweries but the larger ones in the state as well as we move forward on the budget. But it's a great step.

ACTING PRESIDENT STEWART-COUSINS: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I'm voting in favor of this bill.

And I want to bring up an issue that's tangential to this. While it's not as exciting and as popular as beer brewers, I want to mention that we have so many farms that are ready and willing and able to provide snacks that are healthy in schools for healthy food.

And there has been some discussion in Washington, D.C., that these little packets of sliced apples or sliced carrots are

processed food and therefore cannot be distributed at schools.

I would urge people who care about healthy foods and who care about assisting our farmers to get the message to their representatives in Washington, D.C., that sliced apples in a small plastic packet is not processed food, it is merely sliced fresh food.

And I hope you will all do that, because it is absurd that this fresh food, which is coming directly from our farmers to our children to provide healthy food, is not available to them because of this ruling.

I'm voting yes on the bill.

ACTING PRESIDENT STEWART-COUSINS: Senator Bonacic, to explain his vote.

SENATOR BONACIC: Thank you, Madam President.

I support the legislation. I will just ask my colleagues to know that under Governor Paterson's budget, aid was cut to all of the fairs in the State of New York, with the exception of the State Fair in Syracuse.

And as you know, fairs are a good thing in the upstate communities. It brings tourism in, economic vitality. It's an educational event for the children and anyone who visits. And I would ask your help on that item on the budget, when it's reviewed, to try to get that reinstated and avoid that cut.

I vote in the affirmative. Thank you.

ACTING PRESIDENT STEWART-COUSINS: Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I vote aye.

And to follow up on what Senator Robach mentioned in his remarks, in the county shared by me with Senator Valesky there is a brewery, a large brewery, Budweiser, that had a news conference yesterday that basically said if the beer tax goes through, that it would affect them to the point where they would not make a multi-million-dollar expansion.

And we just lost -- they got a second vote from the union on Magna, which is

a manufacturing plant that they're going to close in Syracuse, 1,800 to 2,000 jobs.

So I would hope that while we're doing these bills -- today was a banner day, we're going to actually do three bills today in our four-day weeks -- that we might want to consider passing a one-house budget so we could debate some real issues here that affect real people and real jobs, especially in this Sunshine Week where there's so much darkness over the budget that we're just waiting for the hammer to fall.

So I would respectfully say that this is a good bill, it should be voted yes, but there's another bill that we should be discussing openly in public, in conference committees.

As the ranker on the Finance Committee, it's very frustrating for me to try to explain to people what's going on. And I explain it very simply: Nothing. And hopefully that will change very quickly.

Thank you.

ACTING PRESIDENT STEWART-COUSINS:

Are there any other Senators wishing to explain his or her vote?

Hearing none, the Secretary will announce the results.

THE SECRETARY: Ayes, 60. Nays, 1. Senator Fuschillo recorded in the negative.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 106, by Senator Aubertine, Senate Print Number 245, an act to authorize the City of Watertown, County of Jefferson.

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

Read the last section.

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

ACTING PRESIDENT STEWART-COUSINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT STEWART-COUSINS: The bill is passed.

Senator Klein.

SENATOR KLEIN: Madam President, is there any further business at the desk?

ACTING PRESIDENT STEWART-COUSINS: No, Senator Klein, the desk is clear.

SENATOR KLEIN: There being none, I move that we adjourn until Thursday, March 19th, at 11:00 a.m.

ACTING PRESIDENT STEWART-COUSINS: There being no further business to come before the Senate, on motion, the Senate stands adjourned until Thursday, March 19th, at 11:00 a.m.

(Whereupon, at 3:35 p.m., the Senate adjourned.)