NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:24 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: Father Peter G. Young, of Mother Theresa Community in Albany, is here with us today to offer an invocation.

REVEREND YOUNG: Let us pray.

Everliving God, we gather here in this Senate chamber as members representing our constituents to provide leadership in these days of the final budget discussions for our New York State citizens.

Let Your spirit enlighten our minds and guide our actions, that we may be united in love and bring together a fulfillment for the work of government for the greater honor and the glory of our citizens in this great Empire State.

Amen.

ACTING PRESIDENT VALESKY: Reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Sunday, March 29, the Senate met pursuant to adjournment. The Journal of Saturday, March 28, 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, are there any substitutions at the desk?

ACTING PRESIDENT VALESKY: There

are, Senator Klein.

The Secretary will read the substitutions.

THE SECRETARY: On page 10, Senator C. Johnson moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 3169 and substitute it for the identical Senate Bill Number 2754, Third Reading Calendar 121.

On page 10, Senator Valesky moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 6382 and substitute it for the identical Senate Bill Number 3020, Third Reading Calendar 122.

On page 10, Senator Oppenheimer moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 2046A and substitute it for the identical Senate Bill Number 3453, Third Reading Calendar 125.

And on page 10, Senator Valesky moves to discharge, from the Committee on Commerce, Economic Development and Small

Business, Assembly Bill Number 2941 and substitute it for the identical Senate Bill Number 2829, Third Reading Calendar 126.

ACTING PRESIDENT VALESKY: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

Pending the conclusion of the Finance Committee meeting, may we please stand at ease.

ACTING PRESIDENT VALESKY: The Senate Committee on Finance will meet immediately in the Majority Conference Room, Room 332.

The Senate will stand at ease pending the report of the Finance Committee.

(Whereupon, the Senate stood at ease at 3:28 p.m.)

(Whereupon, the Senate reconvened at 3:43 p.m.)

ACTING PRESIDENT VALESKY:

Senator Klein.

SENATOR KLEIN: Mr. President.

ACTING PRESIDENT VALESKY: Excuse me. Can we have some order, please.

SENATOR KLEIN: Mr. President, may we return to the reports of standing committees.

Is there a Finance Committee report at the desk?

ACTING PRESIDENT VALESKY: Returning to the order of reports of standing committees, yes, Senator Klein, there is a report of the Finance Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Kruger, from the Committee on Finance, reports the following bill direct to third reading:

Senate Print 3700, by the Senate Committee on Rules, an act making appropriations for the support of government.

ACTING PRESIDENT VALESKY: Without objection, the report is accepted and the bill is ordered direct to third reading.

Senator Klein.

SENATOR KLEIN: Mr. President, can we at this time take up the reading of Supplemental Calendar Number 28A.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of Senate Supplemental Calendar 28A.

THE SECRETARY: Calendar Number 129, by the Senate Committee on Rules, Senate Print 3700, an act making appropriations for the support of government.

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: Mr. President, is there a message of appropriation at the desk?

ACTING PRESIDENT VALESKY: A message of appropriation has been received from the Governor and is at the desk.

SENATOR KLEIN: Mr. President, I move to accept the message of appropriation.

ACTING PRESIDENT VALESKY: All those in favor of accepting the message of appropriation please indicate by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY:

Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The message of appropriation is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

Senator Klein.

SENATOR KLEIN: Mr. President, can we at this time take up the reading of Senate Calendar Number 28.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of the Senate Calendar Number 28.

THE SECRETARY: Calendar Number 80, by Senator Klein, Senate Print 1904A, an act to amend the Executive Law, in relation to

maximum age.

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, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 90, by Senator Stavisky, Senate Print 1736A, an act to amend the --

SENATOR LIBOUS: Lay it aside.

ACTING PRESIDENT VALESKY: The bill is laid aside.

THE SECRETARY: Calendar Number 127, by Senator C. Johnson, Senate Print 3641, an act authorizing the State Comptroller.

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, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

Senator Klein, that completes the noncontroversial reading of Senate Calendar Number 28.

SENATOR KLEIN: Mr. President, can we now have a reading of the controversial calendar.

ACTING PRESIDENT VALESKY: The Secretary will ring the bells.

Members are asked to make their way to the chamber so that we can take up the one bill that exists on the controversial calendar.

The Secretary will read.

THE SECRETARY: Calendar Number 90, by Senator Stavisky, Senate Print 1736A, an act to amend the Education Law.

SENATOR LIBOUS: Explanation, please.

ACTING PRESIDENT VALESKY:

Senator Stavisky, an explanation has been requested by Senator Libous.

SENATOR STAVISKY: Thank you, Mr. President.

This bill would prohibit appointees to the SUNY and CUNY Board of Trustees from being employees of the appointing authority.

ACTING PRESIDENT VALESKY:

Senator LaValle.

SENATOR LaVALLE: Through you, Mr. President, would Senator Stavisky yield for some questions?

ACTING PRESIDENT VALESKY:

Senator Stavisky, do you yield?

SENATOR STAVISKY: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LaVALLE: Senator, in your legislation, what do you mean by "supervision"? The language says "provided that no such trustee shall be an employee of or under the supervision of any appointing authority."

SENATOR STAVISKY: This would refer to either a civil servant or a person who is exempt from civil service and works for the appointing authority.

SENATOR LaVALLE: This would include civil service individuals?

SENATOR STAVISKY: Yes.

SENATOR LaVALLE: The appointing authority -- it says any appointing authority. So -- through you, Mr. President.

ACTING PRESIDENT VALESKY: Senator Stavisky, do you continue to yield?

SENATOR STAVISKY: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LaVALLE: Could that mean, if it was a SUNY trustee, that if the individual worked for the Department of Health that that individual would be proscribed from service?

SENATOR STAVISKY: Yes.

SENATOR LaVALLE: Through you, Mr. President.

ACTING PRESIDENT VALESKY:

Senator Stavisky, do you continue to yield?

SENATOR STAVISKY: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LaVALLE: Your legislation takes effect immediately; is that correct?

SENATOR STAVISKY: Yes.

SENATOR LaVALLE: There are two CUNY trustees, Trustee Marc Shaw and Trustee Robles, who serve in a position that under your legislation that would not allow them to continue in their service, since it applies immediately. Or, in the alternative, it would not allow them to continue serving since there is no grandfather clause here.

SENATOR STAVISKY: Through you, Mr. President.

First of all, let me emphasize this in no way detracts from the wonderful individuals who have been appointed by the Governor in the case of the SUNY trustees and by the Mayor and the Governor in the case of the CUNY trustees. And in fact, each of them

has contributed immeasurably to the board on which they serve.

But having said that --

SENATOR LaVALLE: They're history.

SENATOR STAVISKY: -- Marc Shaw, for whom I have immeasurable respect, particularly since he's a constituent of mine, was appointed by the Mayor in 2002, reappointed in 2007. And members of the CUNY board may only serve two terms. So it would not apply to Mr. Shaw in any way, because he would not be eligible for reappointment.

It would apply to the deputy mayor appointed by the Mayor. She would not be eligible, if this bill were to pass, to be reappointed to that term on the CUNY board.

SENATOR LaVALLE: Thank you, Mr. President. On the bill.

ACTING PRESIDENT VALESKY: Senator LaValle, on the bill.

SENATOR LaVALLE: I know of Senator Stavisky's long-held view that she feels that there are conflicts. Obviously,

that's what this bill is all about, that people -- to paraphrase the Senator, you can't serve two masters. So that is a point of view, and it is a legitimate point of view.

However, these are positions that we need to ensure that the pool is as diverse and broad as we can have it. We should not be limiting the appointing authority's hands in the kinds of appointments that they could make. Because there have been, in the past, individuals -- and by Senator Stavisky's own admission, using Marc Shaw as an example -- individuals who add to the deliberations immeasurably.

And that is about as good an example as we could have in considering this legislation that we just shouldn't tie or limit the hands of the individuals who do the appointing.

So I recommend to my colleagues -- particularly with this being immediately, and to have this cover civil service individuals, I think we go too far.

So, Senator Stavisky, I'm

constrained at this point in supporting the bill in the form that it's in.

ACTING PRESIDENT VALESKY: Thank you, Senator LaValle.

Are there any other Senators wishing to be heard on the bill?

Senator Flanagan.

SENATOR FLANAGAN: Thank you, Mr. President. Would Senator Stavisky yield?

ACTING PRESIDENT VALESKY: Senator Stavisky, do you yield?

SENATOR STAVISKY: Of course.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR FLANAGAN: Mr. President, through you, I want to join the remarks of my colleague Senator LaValle. I do have a couple of questions for some clarity.

Would it be a fair assessment to say that under your legislation that no state employee or no city employee would be eligible to serve in the capacity as a trustee?

SENATOR STAVISKY: Except for -- the answer is yes.

Incidentally, let me -- however, the legislation on line 10 or line 11 says "shall be an employee or under the supervision of any appointing authority."

And let me add that there are millions of people living in New York State who would be eligible to serve. It seems to me that we want the largest pool possible of a lay board rather than of professional government employees.

SENATOR FLANAGAN: Mr. President, if Senator Stavisky would continue to yield.

ACTING PRESIDENT VALESKY: Senator, do you continue to yield?

SENATOR STAVISKY: Yes.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR FLANAGAN: In your bill memo -- and I'm looking at the version of the bill memo that is prior to the amendment, so it just speaks to the City University -- you have here language that says "the governing of the City University should be expedited without political motivation."

I'm assuming you would make that justification also for the SUNY system as well. And if so, if that is the case, can you just define what you mean by "political motivation"? Because I listened to Senator LaValle talk about somebody like Marc Shaw, and I also listened to you laud the efforts of an individual like that.

Where are the examples of the, quote, unquote political motivation that we should be worried about?

SENATOR STAVISKY: Well, first of all, the bill was amended, as you noted, to include SUNY as well as CUNY. And I believe the memo, the latest version included SUNY as well.

There were appointees of the Governor. I'm not just picking on the Mayor. Randy Daniels was a SUNY trustee and at the same time was Secretary of State under a prior administration.

So let me answer simply by saying there's another expression that says "Whoever pays the piper calls the tune." And the

question is whether that person would be accountable to the SUNY trustees and the City University and State University system, the students, the faculty, and people who work there, or whether they are accountable to their appointing authority.

And it's going to be very difficult, if you are a deputy mayor or a Secretary of State, to show the kind of independence and the ability not to have to respond to any kind of political pressures that I think is important here.

SENATOR FLANAGAN: Mr. President, on the bill.

Thank you, Senator Stavisky.

ACTING PRESIDENT VALESKY: Senator Flanagan, on the bill.

SENATOR FLANAGAN: Again, I'll join the remarks of my colleague Senator LaValle.

I think we have just a fundamental philosophical difference here in terms of how we view things. I listened to Senator Farley as I was starting to speak. He has thousands

of state employees in his district. Frankly, all of them would be barred from serving in a capacity like this.

And I view this differently, and I think many of my colleagues feel the same way. In essence, what we're saying is that we don't have faith in the people who may potentially be appointed.

Now, right within this chamber, right within this Senate, and frankly across the State of New York, there are thousands of valuable, talented, dedicated employees who have given their lives to public service. And what we are doing by passing legislation like this is saying, in essence, we don't trust you. We don't trust the fact that you might have independent judgment and use your acumen and your experience and your talent that you've demonstrated over so many years to serve in this capacity.

I just think it's the wrong way to approach it. If someone serves as a trustee and is derelict in their duty, that's a different story. I just think it's a bad way

to approach how we should be governing at the city level and at the state level, and it takes away a fundamental power and authority from the Governor and the Mayor, regardless of their political affiliation. And I think it just undermines the integrity of the system.

I'm going to vote no.

ACTING PRESIDENT VALESKY: Thank you, Senator Flanagan.

Senator Farley.

SENATOR FARLEY: Yeah, Senator Stavisky, in all due respect, I rise in opposition to this legislation. Because Senators like myself -- Senator Breslin, Senator McDonald -- this excludes a huge amount of our constituency.

Also, I see this legislation, with all due respect, as veto bait. I can't imagine how the Governor would be pleased with this. We do know that the Mayor of New York is orally opposed to it.

So I'm going to have to vote no, with all due respect.

ACTING PRESIDENT VALESKY: Thank

you, Senator Farley.

Are there any other Senators who wish to be heard?

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

Oh, I'm sorry, Senator Stavisky to close.

SENATOR STAVISKY: Let me just correct slightly something that was said. There is no written memo in opposition from anybody.

Secondly, neither SUNY nor CUNY have taken a position, as far as I know. And the Governor has not taken a position. There is no written memo in opposition.

ACTING PRESIDENT VALESKY: Thank you, Senator Stavisky.

The Secretary will now ring the bells.

Members are asked to come to the chamber to cast their vote.

The Secretary will 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.)

SENATOR LaVALLE: Mr. President.

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

SENATOR LaVALLE: Yes, I rise to explain my vote, thank you.

Just very, very briefly, I want to just reinforce that that bill takes effect immediately, so that people like Marc Shaw and Trustee Robles are history. They're gone. This takes effect immediately, proscribes they can't serve on the board.

So I think, as both Senator Flanagan and I have articulated, there is a philosophical difference. But putting that aside, this bill has immediate consequences that I don't think we want right now.

I vote no.

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

Senator Breslin, to explain his vote.

SENATOR BRESLIN: Thank you, Mr. President. I rise in support of the legislation.

And I don't think anyone intends to cast aspersions on Marc Shaw or any other person who has been appointed who has a job with a governmental agency. And I represent the most government workers of any Senator in this house; it isn't because of that.

It's because of what might seem to others as an appearance of an impropriety. I have spent my whole adult life trying to stay away from conflicts, because I have two brothers who also practice law and serve in different capacities. One is a prosecutor, then a judge.

And we have to be concerned with what a third party would look at. And that third party might say how can anyone operate independently and still have a job that's connected to the appointing authority.

And it's not questioning the

appointing authority's honesty or credibility or integrity, and it's not questioning the individual who's appointed's honesty or credibility. It's really suggesting that in this world, we have to be very careful of appearances for impropriety.

And I think this is one is a situation where, rightly or wrongly, there is the possibility of the appearance of an impropriety. And therefore I will be voting in favor of this legislation.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Senator Breslin will be recorded in the affirmative.

Senator Stavisky, to explain her vote.

SENATOR STAVISKY: Yes, first of all, it would not affect Mr. Shaw because he's term-limited. So it would have absolutely no effect.

Secondly, the bill takes effect immediately. It doesn't take effect at the last appointment, it's prospective

appointments. It says immediately, which means that future appointees would be covered under this legislation.

And secondly, I thank Senator Breslin for his explanation, because that's exactly the message I'm trying to send, that this is a government of transparency, it's a government of not just obeying the law but it's also a question of appearances as well.

Somebody smarter than I once said that the perception is sometimes more important than the reality. And I hope that that is the message that the various prospective candidates will take, and it's certainly not aimed at anybody at all.

Thank you.

ACTING PRESIDENT VALESKY: Senator Stavisky, how do you vote?

SENATOR STAVISKY: I think I'll vote aye.

(Laughter.)

ACTING PRESIDENT VALESKY: Senator Stavisky recorded in the affirmative.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I rise -- I'm going to vote in opposition to this bill. I think it sets a bad precedent. Not only does it exclude hundreds of thousands of people from performing a public service which they are absolutely entitled to and could legitimately perform, but it sets a precedent.

I sat on a school board. I was a teacher at the time. Should I be excluded because -- I wasn't a teacher in the district, but should I be excluded from serving on that board because I was a teacher and might be talking about interests that might affect the profession that I serve?

This, I think, is a bad idea. Should lawyers be allowed to sit in judgment of other lawyers? I mean, they have self-interest at hand. Should doctors be allowed to sit on boards that affect medical practices? They have self-interest at hand.

We are opening up Pandora's box. I think it's a bad concept. Like a jury, we

want as many people available to serve who are qualified to serve as possible. We shouldn't be excluding, we should be including. This bill excludes. I vote nay.

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

Senator Seward, to explain his vote.

SENATOR SEWARD: Thank you, Mr. President. I rise to vote no on this legislation.

I understand the intent of the sponsor, but yet I've heard no examples of our current system has been a problem for either SUNY or CUNY. In fact, I've heard plenty of examples of when appointees of either the Mayor or the Governor on the SUNY and CUNY boards who happen to be employees or appointees of that Governor or Mayor have actually made a great contribution to those boards. So I've heard no examples of the problem that we're attempting to fix here.

I understand the issue of

appearance of impropriety. But my question to the sponsor and to my colleagues is, where do you stop? Where do you stop on this? Should we not allow, shall we say, political contributors of either the Governor or the Mayor to be then appointed to these boards? How about fraternity brothers or sorority sisters or college roommates or the guy next door? There are all kinds of associations that many qualified people would have with either the Governor or the Mayor.

I think it's incumbent upon this body, who at the end of the day, through the confirmation process, if we're concerned about the independence of these board members, I think that that should be the subject of questions during the confirmation process, to query these nominees in terms of their independence, get them on the record. That's our job here in this Senate, rather than passing some ill-advised legislation which sets a bad precedent and is too far sweeping in terms of eliminating too many people from serving on these important boards.

I vote in the negative.

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

Senator Golden, to explain his vote.

SENATOR GOLDEN: Thank you, Mr. President.

I too rise because I believe that we should not be excluding talented people, talented candidates that could serve in either of these boards. Five hundred thousand people will be excluded, over 500,000 people will be excluded from having the opportunity of bringing their expertise to these boards.

You know, once we go down this path, what's next? The MTA? Are we going to start to tinker with that board too? Are we going to tinker with boards across the city and the state?

I think we're setting the wrong precedent here. And I think as well-intentioned as my colleague may think this legislation is, I would never want to have to deny talent that can bring and improve our

institutions and bring them to a higher standard here, not only here in this state but in this great nation.

I vote no.

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

Senator Perkins, to explain his vote.

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

I want to take a quick moment to not only support this but to commend my colleague for being proactive and prospective. Proactive to the extent that this has not yet arisen to become a problem, but nevertheless there's a great potential for it to be a problem.

We know in New York City, under mayoral control, with some appointees to the governing educational board, there were some conflicts of interest that had to be addressed.

And I think that this is a reform measure that gives this body a good message to

the public in terms of trying to prevent these types of conflicts of interest in which an appointee is controlled by the appointer.

And so I think this is good for us, and I want to make sure that I express my appreciation to you and encourage everybody to support it.

Thank you.

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

Senator Saland, to explain his vote.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I listened to the debate, and I was particularly taken with the exchange between Senator LaValle and Senator Stavisky. And it made me really pore over the bill two and then three times looking for something in the bill that said it was prospective.

I don't know Marc Shaw. I don't believe I've ever met him. I wouldn't know

him if he was standing next to me. I've heard his name. He seems to be lauded in most quarters. He was by Senator Stavisky.

There is nothing in this bill nor is there anything in this memo that uses the word "prospective." It uses the word "immediately." And there's nothing in this bill, nor in the memo, that says that those who are currently serving who may have been appointed by some state entity or board or individual or city entity, board or individual, are being grandfathered.

In fact, any clear reading of this bill would say absent of some kind of an amendment that this is effective immediately, and anybody on this board who falls into the classification that the sponsor, Senator Stavisky, wishes to now preclude would either have to resign or would have to be terminated.

There's no other reading of this bill, regardless of how many times you read it. Whatever you do with it, whatever you infer or whatever you say you want to do, neither the bill nor the memo does either.

I vote in the negative.

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

Senator Larkin, to explain his vote.

SENATOR LARKIN: Thank you, Mr. President.

I've been listening to this back and forth. And Senator LaValle, who's been on education for more years than many people have been in this chamber. Senator Saland's been on education. I heard Senator Seward on it. Senator Farley. Senator John Flanagan.

And the more I listened to them, I said, you know, this is a bad bill. And then all of a sudden I thought to myself: We just appointed some people to the Regents a couple of weeks ago. Well, I kind of think that some of them would not be eligible because of what they do in private life.

I think if you're going to start saying that all these employees in the City of New York can't be considered for it, well then why don't we just set this bill aside and put

a B print on it and say Board of Regents?

I vote no.

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

Senator Craig Johnson, to explain his vote.

SENATOR CRAIG JOHNSON: Thank you very much, Mr. President.

I rise to vote in favor of this important piece of legislation, important piece of reform legislation. I commend my colleague in government Senator Stavisky.

I've listened to the debate. It was a good debate, and it certainly gave some food for thought.

I certainly found one of the comments of my colleagues very interesting about the MTA board. I think we should do everything possible to reform that MTA board. I mean, I think that's a given. And I'm hopeful that at the end of the day, where we are on MTA, that board or that entity is going to be fully reformed.

I listened to other colleagues who

talked about their employment and serving on boards and doing other things related to that employment.

I think there is a big difference. I could imagine the comfort or the concern that people would have living in a school district if, for instance, somebody who is employed by that school district served on that school board. And I think that's what we're trying to avoid here.

And notwithstanding the fact that maybe, you know, we are going to unfortunately lose some possible good additions to a SUNY or CUNY board, there are millions of New Yorkers out there who I think can do a great job in serving on the CUNY and the SUNY boards.

So again, I believe this is an important piece of legislation. It prevents any possible problems, real or potential. And I think this is a good day for the New York State Senate. So I commend you, Senator Stavisky, and I will be voting yes.

Thank you very much, Mr. President.

ACTING PRESIDENT VALESKY:

Senator Craig Johnson to be recorded in the affirmative.

Senator Liz Krueger, to explain her vote.

SENATOR LIZ KRUEGER: Thank you. I also listened to the debate, and I gave serious thought to the arguments.

And I'm going to support my colleague Toby Stavisky on this, because I think she's actually raising even more important issues than just this one bill: The importance of our evaluating as a state the governance procedures of public authorities and universities and a whole series of boards that we nominate people and confirm them to through the Senate.

We know we have serious problems with governance in private institutions. Certainly in private financial institutions, we're all aware of the problems. And I think it is incumbent upon us as a legislature to truly evaluate the process by which we make appointments and confirmations to boards and how we make the decision about who is making

decisions that affect 19 million New Yorkers.

I heard the concerns about being prospective versus immediate. And the Senator has assured me that the intention is prospective. I don't think it has anything to do with any named individuals. And frankly, I don't think it's appropriate there were individuals being named here as if this piece of legislation is targeted in a specific way.

And so I want to thank Senator Stavisky for helping us to begin to think through a very complex, I think, and big picture question, how are we evaluating the boards, how are we going through the process of determining the governance, how are we making sure that we have the appropriate oversight over the boards that spend the taxpayers' money.

And I heard the concern that 500,000 people might not be eligible for this board. Well, the great news is we have over 19 million New Yorkers, and we should be bringing them more into the process. And this is going to allow them to do that.

So thank you. I vote yes.

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

Senator Lanza, to explain his vote.

SENATOR LANZA: Thank you, Mr. President.

I'm going to be voting against this measure. I've listened to the discussion here, and my concern is this. I understand the intent. It is a very good intent. The intent here, I know from the sponsor, is to ensure that there's objectivity in this process. And by that I'm sure she means we want to remove political influence from the process.

You know, I'm just not sure that this does it. In fact, I know it doesn't, because at the end of the day it still holds that the appointments shall be made by the Governor and the Mayor. So regardless of whether or not they're under the supervision of the appointing authority, they're still being appointed by these political

authorities. And so nothing in this legislation is going to remove the political influence that we all, perhaps, seek to remove here.

And so I am convinced by the discussion which suggests that if we're not going to do that, we ought not limit the field here. It's very important that we have the best and the brightest when it comes to SUNY and CUNY.

And one thing stands out for me with respect to narrowing the field. It would seem to me that under this legislation, if you were a New York City teacher, you could not be a trustee because you are under -- we have mayoral control in the City of New York. You are certainly under the supervision of the appointing authority.

And I don't think, if we had thought this out, we would want to support legislation and I can't imagine anyone here supporting legislation that would exclude every single New York City teacher from serving as a trustee on CUNY or SUNY. That is

absurd.

And that is why I am voting against this measure.

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

Are there any other Senators who wish to explain their vote?

Seeing none, the Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 90 are Senators Alesi, Bonacic, DeFrancisco, Farley, Flanagan, Fuschillo, Golden, Griffo, Hannon, O. Johnson, Lanza, Larkin, LaValle, Leibell, Libous, Little, Marcellino, Maziarz, McDonald, Nozzolio, Ranzenhofer, Robach, Saland, Seward, Skelos, Volker, Winner and Young.

Ayes, 34. Nays, 28.

ACTING PRESIDENT VALESKY: The bill is passed.

Senator Klein, that completes the reading of the calendar.

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

ACTING PRESIDENT VALESKY: There is none, Senator.

SENATOR KLEIN: Before we adjourn, could you call on Senator Libous for a brief announcement.

ACTING PRESIDENT VALESKY: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

There will be an immediate Republican conference in Room 315.

ACTING PRESIDENT VALESKY: Immediate Republican conference in Room 315.

Senator Klein.

SENATOR KLEIN: Mr. President, there being no further business, I move we adjourn until tomorrow at 9:30 a.m.

First, there will be a Finance Committee meeting at 9:00 a.m., session immediately following at 9:30 a.m.

ACTING PRESIDENT VALESKY: On a motion by Senator Klein, the Senate stands adjourned until tomorrow, Tuesday, at 9:30 a.m., with the Finance Committee to meet

at 9:00 a.m.

(Whereupon, at 4:22 p.m., the Senate adjourned.)