NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 12, 2009

3:43 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, Monday, May 11, 2009, the Senate met pursuant to adjournment. Senator Breslin in the chair upon designation of the temporary president. Prayer by the Reverend Peter G. Young, Mother Theresa Community, Albany, New York. The Journal of Friday, May 8, 2009, was read and approved.

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.

Senator Klein.

SENATOR KLEIN: Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT VALESKY: There are, Senator Klein.

The Secretary will take them up at this time.

THE SECRETARY: Page number 19, Senator Thompson moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 3423 and substitute it for the identical Senate Bill Number 1635, Third Reading Calendar 252.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Page number 20, Senator Addabbo moves to discharge, from the

Committee on Codes, Assembly Bill Number 3871A and substitute it for the identical Senate Bill Number 4755, Third Reading Calendar 256.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Page number 20, Senator Valesky moves to discharge, from the Committee on Finance, Assembly Bill Number 1846 and substitute it for the identical Senate Bill Number 3088, Third Reading Calendar 260.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Page number 20, Senator Valesky moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 4358 and substitute it for the identical Senate Bill Number 3078, Third Reading Calendar 264.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: On page 20, Senator Craig Johnson moves to discharge, from the Committee on Investigations and Government

Operations, Assembly Bill Number 1055A and substitute it for the identical Senate Bill Number 4460, Third Reading Calendar Number 266.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Page number 21, Senator Morahan moves to discharge, from the Committee on Transportation, Assembly Bill Number 2393, and substitute it for the identical Senate Bill Number 4014, Third Reading Calendar Number 269.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Page number 21, Senator Duane moves to discharge, from the Committee on Health, Assembly Bill Number 730 and substitute it for the identical Senate Bill Number 3834, Third Reading Calendar Number 272.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Page number 21, Senator Duane moves to discharge, from the

Committee on Health, Assembly Bill Number 724 and substitute it for the identical Senate Bill Number 3841, Third Reading Calendar 273.

ACTING PRESIDENT VALESKY: Substitution ordered.

THE SECRETARY: Page number 21, Senator Duane moves to discharge, from the Committee on Health, Assembly Bill Number 763 and substitute it for the identical Senate Bill Number 3907, Third Reading Calendar Number 274.

ACTING PRESIDENT VALESKY: Substitution ordered.

Senator Klein, that completes the substitutions that are at the desk.

SENATOR KLEIN: Mr. President, I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT VALESKY: 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 nominations.

As a member of the Workers' Compensation Board, new appointment, Robert E. Beloten, of Queens.

ACTING PRESIDENT VALESKY: Senator Kruger.

SENATOR CARL KRUGER: Move the nomination, please.

ACTING PRESIDENT VALESKY: The question is on the motion to confirm -- Senator Stavisky, why do you rise?

SENATOR STAVISKY: I rise in support of the nomination of my constituent, Robert Edward Beloten.

He has a very impressive background, bringing nearly 20 years of experience working for the New York State Workers' Compensation Board as a hearing officer, a law judge, and other positions within the Workers' Compensation Board.

He's also served our state in other capacities and as a senior associate with a law firm dealing with clients involved in workers' compensation issues.

He served clerkships, interestingly, with the Honorable Pearle Applebaum, from Queens, and with a former member of the Assembly, Supreme Court Judge Herbert Posner.

So I am delighted to recommend the nomination, and I congratulate him. I know that he's going to be serving for many more years to come as an exemplary member of the Workers' Compensation Board.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Stavisky.

Are there any other Senators who wish to be heard on the nomination?

Seeing none, the question is on the nomination of Robert E. Beloten, of Queens, for an appointment to the Workers' Compensation Board. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The nomination of Robert E. Beloten, of Queens, as a member of the Workers' Compensation Board is confirmed.

Mr. Beloten joins us in the gallery. Congratulations.

(Applause.)

ACTING PRESIDENT VALESKY: The Secretary will continue to read.

THE SECRETARY: As a member of the Workers' Compensation Board, new appointment, Alfreida Foster-Tolbert, of New York City.

ACTING PRESIDENT VALESKY: Senator Kruger.

SENATOR CARL KRUGER: Please move the nomination.

ACTING PRESIDENT VALESKY: Senator Thompson, why do you rise?

SENATOR THOMPSON: Yes, it's with great privilege and honor that I support and vote for this beautiful young lady that I've had the pleasure of knowing for a number of years.

And in addition to that, I knew her late husband very well. We met, actually, in 2000, in Washington, D.C. -- actually, we met a couple of years earlier, but really I think our bond came together more in 2000, at a training in Washington, D.C., and our paths crossed numerous times.

And Frieda worked for the previous Governor, doing a great job. And I'm sure that she will be very successful in this current capacity.

So I proudly support Mrs. Tolbert's nomination.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Thompson.

Senator Stavisky.

SENATOR STAVISKY: On the nomination.

ACTING PRESIDENT VALESKY: On the nomination.

SENATOR STAVISKY: I too rise to congratulate the Governor on his nomination of Freida Foster-Tolbert.

I first met Ms. Tolbert when she came before the Higher Education Committee for confirmation as a member of the Board of Trustees of the City University of New York.

She has been a manager in a public affairs program. She has extensive experience working for the State of New York and especially brings a commitment and a dedication seen in a family where public service has a long, long tradition.

And I'm delighted to congratulate her on her nomination to the Workers' Comp Board.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator Stavisky.

Are there any other Senators who wish to be heard?

The question is on the motion to confirm Alfreida Foster-Tolbert, of New York City, as a member of the Workers' Compensation Board All. In favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY:

Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The motion to confirm Alfreida Foster-Tolbert, of New York City, as a member of the Workers' Compensation Board is hereby carried.

Congratulations, Ms. Foster-Tolbert.

(Applause.)

ACTING PRESIDENT VALESKY: The Secretary will continue to read.

THE SECRETARY: As a member of the Niagara Frontier Transportation Authority, new appointment, Mark D. Croce, of Buffalo.

As a member of the Capital District Transportation Authority, new appointment, Georgeanna Lynch, of Saratoga Springs.

As members of the Central New York Regional Transportation Authority, new appointments, Mary O. Davis, of Rome, and David H. Hawthorne, of Fulton.

As members of the New York State Bridge Authority, new appointments, Carl Vane Lashua, of Beacon; Joseph Ramaglia, of

Campbell Hall; and Francis N. Vecellio, of Kinderhook.

As a member of the Ogdensburg Bridge and Port Authority, new appointment, Ramona A. Breen, of Ogdensburg.

As a member of the Port of Oswego Authority, new appointment, Kathryn E. Torba, of Oswego.

As members of the Rochester-Genesee Regional Transportation Authority, new appointment, Francis J. Falzone, of Macedon, and reappointment, Barbara J. Jones, of Rochester.

As a member of the Board of Directors of the Roosevelt Island Operating Corporation, new appointment, Howard Polivy, of New York City.

ACTING PRESIDENT VALESKY: Senator Kruger.

SENATOR CARL KRUGER: Move the nominations, please.

ACTING PRESIDENT VALESKY: The question is on the motion to confirm the nominations as read by the Secretary.

Senator Maziarz, why do you rise?

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

I would just like to go on record, Mr. President, as noting for the record that we have had a longstanding policy, when it comes to appointing members of the Niagara Frontier Transportation Authority, that if they are new appointees that they would appear in person.

And in my discussions with the chairman of the Senate Finance Committee, that was not done in the case of Mark D. Croce, of Buffalo.

Now, I don't know Mr. Croce; he may be a very fine person. He's a very successful businessperson, from what I read in the newspaper, anyway.

But I just think it's a disservice to the people of Western New York and the Niagara Frontier Transportation Authority that we did not have the opportunity to ask Mr. Croce questions.

There's a lot of things happening

with the Niagara Frontier Transportation Authority. There's a new airport opening up in the town of Wheatfield, in the town of Niagara. And I would have loved to have asked Mr. Croce about his opinion of the bus service in Niagara County, any ideas on the expansion of the bus service.

But we didn't get that opportunity because of this break in longstanding, longstanding tradition and policy. I would just like to note that for the record, Mr. President.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Maziarz. The record so reflects your concern.

Senator Thompson.

SENATOR THOMPSON: Yes, just for the record, I think that -- it's my understanding that just a couple of months ago a gentleman was appointed to this committee, a new appointment -- I was asked to support his candidacy -- by the name of Michael Hughes, a professional with the Kaleida Health System.

And it's my understanding from sitting on the Finance Committee that Mr. Hughes did not come in.

And since I've been in the Senate for the last two years, I can't honestly recall any new appointments that have come through where the people actually came from Western New York to come to Albany for an unpaid board position.

It's been my understanding since I've been here for the last two years, for the most part, the boards where people do not get compensated, that they have not been asked or requested or required to endure that expenditure.

So I respectfully disagree with the previous speaker. I understand their concern. But I think this person who is volunteering should not be treated any differently from the last two or three appointments that came through between this year and the last two years.

Thank you.

ACTING PRESIDENT VALESKY: Thank

you, Senator Thompson.

Senator Maziarz.

SENATOR MAZIARZ: Thank you again, Mr. President. Just to correct the record.

My good friend Senator Thompson is once again totally incorrect. And I think if we had talked to Senator Volker, I know that there was this example of Mr. Hughes. However, Mr. Hughes had the courtesy of visiting each member of the Western New York delegation personally back in Western New York and had a personal situation where he couldn't come here on that particular appointed day.

I've never met Mark Croce. As I said, he may be a very capable individual. I think it's a disservice to the people.

And even though they're not paid to be on the Niagara Frontier Transportation Authority, it is a most important decision-making body. And it has always been the tradition that because of that particular situation, the Niagara Frontier Transportation Authority, that nominees have always come up

here.

Senator Volker has been here an awful long time. And let the record show that Senator Volker is nodding in the affirmative, Mr. President.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Maziarz.

Are there any other Senators who wish to be heard?

Seeing none, the question is on the motion to confirm the nominations as previously read by the Secretary. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The motion carries, and the nominations are hereby confirmed.

Returning to the order of business, reports of select committees.

Communications and reports from

state officers.

Motions and resolutions.

Senator Klein.

SENATOR KLEIN: Mr. President, I have a motion.

On behalf of Senator Foley, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Bill 4026.

ACTING PRESIDENT VALESKY: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time may we adopt the Resolution Calendar in its entirety, with the exception of Senate Resolution Number 1856.

ACTING PRESIDENT VALESKY: All those in favor of adopting the Senate Resolution Calendar in its entirety, with the exception of Resolution Number 1856, please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY:

Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The Resolution Calendar is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, may we at this time take up Senate Resolution Number 1856. I ask that the resolution be read and move for its immediate adoption, and give Senator Little the opportunity to speak on her resolution.

ACTING PRESIDENT VALESKY: The Secretary will read.

THE SECRETARY: Senate Resolution Number 1856, legislative resolution memorializing Governor David A. Paterson to proclaim May 11-17, 2009, as Fibromyalgia Awareness Week in the State of New York.

ACTING PRESIDENT VALESKY: Senator Little, on the resolution.

SENATOR LITTLE: Thank you, Mr. President.

Once again, the Legislature is proclaiming a week for fibromyalgia awareness.

And the key word here is "awareness." Because fibromyalgia affects many, many people in this state and in this country. It affects men, women and children, although it mainly affects women.

And it's more than a disease, it's actually a syndrome that has no known cause and no known cure. It's a syndrome that has extreme fatigue, chronic joint pain, and a real debilitating ability to lead a normal life.

I have a friend that has fibromyalgia, and she described to me waking up in the morning and feeling as though she had the dentist's lead shield over her, and the inability to actually be able to get out of bed and to function that day.

Because we have paid some attention to fibromyalgia, we are looking at ways to make their life easier. There are now some drugs that are available. But for many, many women, the main way of curing this is through some other forms: through dietary, through acupuncture -- my friend goes acupuncture once

a month -- through massage, through altering your life so that you can function through this syndrome and this real, real debilitating disease.

Another friend who's a physician said this is one of the worst diagnoses that you can give to a woman, because you can't really tell them how they got it and you can't tell them that they will be cured from this. It's something that a person has to learn to live with.

So the more we make people aware of this fibromyalgia and how it affects people and how it can be controlled, the better off we will be. Many, many people go through two to three years of medical visits before they're even diagnosed with this, so awareness is key.

And I thank all of you for joining me in this resolution. And I know that anyone who wishes to join the resolution certainly is welcome to, and we appreciate your participation.

And thank you to the many people

who came down today talking about fibromyalgia and making us more aware of how it has affected their lives and what can be done to really help improve the lives of other people who are affected by this.

Thank you very much.

ACTING PRESIDENT VALESKY: Thank you, Senator Little.

And before calling the question on the resolution, the Secretary will read Resolution Number 1856 in its entirety.

THE SECRETARY: "WHEREAS, An estimated 10 million people in the United States, 6 to 8 percent of the population, and millions of people worldwide have been diagnosed with fibromyalgia, a disease for which there is no known cause or cure; and

"WHEREAS, A chronic disorder that increases at alarming rates, fibromyalgia causes fatigue and debilitating pain in women, men, and children of all ethnicities; and

"WHEREAS, Patients with fibromyalgia often have to learn to live with widespread pain throughout their bodies,

extreme fatigue, sleep disorders, stiffness and weakness, migraine headaches, numbness and tingling, and impairment of memory and concentration; and

"WHEREAS, It often takes an average of five years to receive a diagnosis of fibromyalgia, and medical professionals frequently are inadequately educated on the diagnosis and treatment of fibromyalgia; and

"WHEREAS, Increased awareness and expanded knowledge of the realities of life with fibromyalgia will allow the community at large to better support people who struggle with the challenges of this chronic pain disorder; and

"WHEREAS, A nonprofit charitable organization and the publisher of Fibromyalgia AWARE, the first and only consumer magazine for fibromyalgia, the National Fibromyalgia Association has joined together with other groups around the country to promote fibromyalgia awareness and support, including improved education, diagnosis, research and treatment; and

"WHEREAS, In addition, the National Fibromyalgia Association is urging fibromyalgia patients and their supporters, healthcare providers, and the general public to demonstrate their caring by sharing the road patients walk, the facts about fibromyalgia, and the ever-growing awareness about the etiology of this disorder and potential treatments; and

"WHEREAS, The community's focus on fibromyalgia and its impact on patients' lives will help guarantee hope for a better future for people with fibromyalgia; and

"WHEREAS, This Legislative Body recognizes the needs of those chronically ill people who suffer from fibromyalgia and urge all of our citizens to support the search for a cure and assist those individuals and families who deal with this devastating disorder on a daily basis; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor David A. Paterson to proclaim

May 11-17, 2009, as Fibromyalgia Awareness Week in the State of New York; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Honorable David A. Paterson, Governor of the State of New York, and the National Fibromyalgia Association."

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.

At Senator Little's request, it is open for cosponsorship by all members of the house. Any member wishing not to cosponsor the resolution should notify the desk.

Senator Klein.

SENATOR KLEIN: Mr. President, can we move at this time to a reading of

Senate Calendar Number 46.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of Senate Calendar 46.

THE SECRETARY: Calendar Number 207, by Senator Thompson, Senate Print 3782, an act to amend the Environmental Conservation Law, in relation to the management of marine fish subject to interstate and federal fishery management plans and migratory game birds.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

SENATOR LaVALLE: Mr. President, I have on many occasions risen to talk about how the fisheries off of Long Island have been managed to the point where it has affected many of the communities that I represent and

the individuals that are involved in fishing.

We all understand that we need to protect the resource; there's not a person that is in disagreement with that. But overmanaging and over-making restrictions is not a good thing.

And the communities that I represent in the East End where families -- and I've said this several times on this floor -- have been in the fishing industry going back a hundred or more years are not in the business anymore. They're done. They're finished.

And so this is another restrictive act that we don't need, and I vote in the negative.

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

Senator Volker.

SENATOR VOLKER: In the negative.

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

Senator Thompson, to explain his vote.

SENATOR THOMPSON: Yes, just on the bill.

Mr. President, this piece of legislation I believe is important. I don't believe it's a situation where it's more overregulation. This bill simply says that every two years DEC will not have to continue to come back to the Legislature.

If for some reason that we find that there's egregious actions or abuse, that then I think this Legislature, as always, as it has done in the past on other issues, will then come back and address it.

But I believe that this -- we have not received one memo of opposition to this legislation. And when members on both sides of the aisle have brought issues before me in committee that are of concern that I or my staff or various staffs may not be as knowledgeable about, we have often this year tried to accommodate many of those issues.

So we have not received one memo of

opposition. I support this bill, I think it's a fair bill, and I would encourage my colleagues to do the same.

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

Can we once again have a show of hands of those Senators voting in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative are Senators DeFrancisco, LaValle, Marcellino, Maziarz, and Volker.

Ayes, 57. Nays, 5.

ACTING PRESIDENT VALESKY: The bill is passed.

Senator Little will also be recorded in the negative on Calendar Number 207.

The Secretary will announce the results.

THE SECRETARY: Ayes, 56. Nays, 6.

ACTING PRESIDENT VALESKY: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 218, by Member of the Assembly Galef, Assembly Bill Number 7505, an act to amend the Real Property Tax Law, in relation to coordinated assessment programs.

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: Ayes, 61. Nays, 1. Senator Maziarz to be recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number

225, by Senator Aubertine, Senate Bill 4065, an act to amend the Civil Practice Law and Rules, in relation to acknowledgment of service forms.

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: Results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 232, by Senator Addabbo, Senate Print 4035, an act to amend the Election Law, in relation to county board of election addresses on voter registration forms available --

SENATOR LIBOUS: Lay it aside, please.

ACTING PRESIDENT VALESKY: The

bill is laid aside.

THE SECRETARY: Calendar Number 238, by Senator Breslin, Senate Print 1031, an act to legalize, validate, ratify and confirm a transportation contract of the South Colonie Central School District.

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.)

ACTING PRESIDENT VALESKY: Results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 239, by Senator Stachowski --

SENATOR ROBACH: Lay it aside.

SENATOR KLEIN: Mr. President, will you lay it aside for the day, please.

ACTING PRESIDENT VALESKY: The

bill is laid aside for the day.

THE SECRETARY: Calendar Number 260, substituted earlier today by Member of the Assembly Morelle, Assembly Print Number 1846, an act to amend the Executive Law, in relation to prohibiting state agencies from offering loans to their employees.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day after it shall have become law.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT VALESKY: Results.

THE SECRETARY: Ayes, 62.

ACTING PRESIDENT VALESKY: The bill is passed.

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

SENATOR KLEIN: Mr. President, can we now go to a reading of the

controversial calendar.

ACTING PRESIDENT VALESKY: The Secretary will ring the bells.

I ask all Senators to proceed to the Senate chamber as we take up the one bill that is on the controversial calendar.

The Secretary will place Calendar 232 before the house.

THE SECRETARY: Calendar Number 232, by Senator Addabbo, Senate Bill 4035, an act to amend the Election Law, in relation to the --

SENATOR LIBOUS: Mr. President.

ACTING PRESIDENT VALESKY: Senator Libous.

SENATOR LIBOUS: It's awful noisy in here. I cannot hear the Journal clerk reading the bill, and there's a lot of conversations going on. If you could call for some order, please.

It's important that I hear the title and explanation of this bill.

ACTING PRESIDENT VALESKY: If we may have some order in the chamber so that

Senator Libous and others have the opportunity to hear it clearly.

SENATOR LIBOUS: Thank you, Mr. President.

ACTING PRESIDENT VALESKY: We're on the controversial calendar. Are there any Senators who wish to be heard?

SENATOR LIBOUS: Explanation, please.

ACTING PRESIDENT VALESKY: Senator Addabbo, an explanation of the bill has been requested.

SENATOR ADDABBO: Sure. Good afternoon, Mr. President.

What this bill, Senate Print 4035, basically does is codify some procedures and practices already done. But additionally, it takes one extra step. It will allow the correct address of the county Board of Elections to be preprinted on the form as the person who is registering online prints the form out.

What we have now are individuals writing the incorrect address for the county

Board of Elections, and the registration form is being lost.

Some people, especially in the five boroughs, they live in Staten Island, but the correct county name is Richmond County. People live in Brooklyn, the correct county name is Kings County.

Some individuals live near or close or at a county border. So to have the correct county Board of Elections address printed on the registration form, this bill will allow the Board of Elections to preprint it on the downloadable form.

ACTING PRESIDENT VALESKY: Thank you, Senator Addabbo.

Senator Lanza.

SENATOR LANZA: Mr. President, would the sponsor yield for a few questions?

ACTING PRESIDENT VALESKY: Senator Addabbo, do you yield?

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LANZA: Thank you, Mr. President. Through you.

Senator Addabbo, has the Board of Elections indicated that 60 days, which I see is the day this law would become effective, is sufficient for them to gear up in order to implement under the terms of this legislation?

SENATOR ADDABBO: Mr. President, through you. As many of you know, the Committee for Elections has been going around the state at public hearings. In our hearings at Buffalo, we had both commissioners from the State Board of Elections, Commissioners James Walsh and Doug Kellner, testify. Neither of them had opposition to this bill nor the effective date.

SENATOR LANZA: Would the sponsor continue to yield?

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

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR ADDABBO: I'm sorry, that testimony was in the New York public hearing. Not the Buffalo one, but New York City.

SENATOR LANZA: So, Senator Addabbo, I'm still not clear. Has the Board of Elections indicated that 60 days is sufficient for them to implement the changes they would need to implement in order to comply with this legislation?

SENATOR ADDABBO: Mr. President, I'll try and use smaller words here.

Basically, what happened was when they had given testimony there was no opposition to either the implementation date or the procedure, number one.

Number two, there was no indication of any negative statements by either commissioner on this bill.

SENATOR LANZA: Mr. President, would the sponsor continue to yield?

ACTING PRESIDENT VALESKY: Senator, do you yield?

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LANZA: Senator Addabbo, you can use any words you want. I still haven't heard whether or not the Board of Elections has indicated that they have said that 60 days is sufficient.

So big words, small words, I'll take whatever you've got. If you're willing to answer the question, I'd love to have the answer.

SENATOR ADDABBO: Mr. President, through you. Again, no indication, Senator Lanza, no indication that they are against the effective date of this bill.

SENATOR LANZA: Mr. President, would the sponsor continue to yield?

ACTING PRESIDENT VALESKY: Senator Addabbo, do you yield?

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor continues to yield.

SENATOR LANZA: Through you,

Mr. President. So we're not sure, with respect to the first question, whether or not 60 days is sufficient for them to make the changes they need.

With respect to the cost, do we have an indication from them or any agency how much this will cost the taxpayers of the State of New York?

SENATOR ADDABBO: Mr. President, through you. When the cost issue came up, Senator Lanza, at the hearing, the cost issue was minimal. And again, no opposition by either chair of the Board of Elections.

SENATOR LANZA: Would the sponsor continue to yield.

ACTING PRESIDENT VALESKY: Senat or Addabbo, do you yield?

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor continues to yield.

SENATOR LANZA: Through you, Mr. President. Senator Addabbo, like everything else in life, cost is relative.

When you say "minimal," I'm not sure what I can go back home and tell the people of Staten Island what that means.

So beyond that, do we have any specific indication of the cost of this legislation?

SENATOR ADDABBO: Mr. President, through you. Keep in mind, Senator Lanza, that this practice, online voter registration, is a practice already being done. What we're looking at is just programming it to put the proper county Board of Elections address.

Therefore, again, I believe that the cost is minimal. And nothing -- even in the tough fiscal situation that even our city Board of Elections feels that they are in, they never brought that up as an issue with Senate Bill 4035.

SENATOR LANZA: Mr. President, would the sponsor continue to yield?

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

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR LANZA: Senator Addabbo, do we have an indication from the Board of Elections -- if in fact this were to pass and we have 60 days to implement it -- how much overtime would need to be authorized by the various county Board of Elections to get the job done?

SENATOR ADDABBO: Mr. President, through you. I don't believe any overtime. It is a simple programming issue. The database already exists. Obviously, address finders already exist. It's a simple programming issue that requires, I believe, no overtime whatsoever.

SENATOR LANZA: Would the sponsor continue to yield?

ACTING PRESIDENT VALESKY: Senator Addabbo --

SENATOR ADDABBO: Yes.

ACTING PRESIDENT VALESKY: The Senator continues to yield.

SENATOR LANZA: Thank you.

Mr. President, through you. You know, again, I'll move on, but I really don't have an answer to my question, so I can't tell the taxpayers back home how much this will cost. To say "minimal," again, in a budget the size that we have here, tens of millions of dollars might by you be considered minimal. To the people back home, that might be considered egregious. But again, I'll move on.

Is the technology presently in place to ensure that this can actually happen? For instance, if I were a new -- and again, I want to add that I support any effort that makes it easier for people to efficiently and honestly register to vote in this state. I know that's where you're going here, Senator, and I commend you. But I just have concerns with what this bill does with respect to putting that into practice.

If I'm a new registrant and I type in my name and an address, as we all know, we can have the same street address in numerous counties. Do we presently have a system that would be able to zero in on the correct county

for a new registrant?

SENATOR ADDABBO: Mr. President, through you. Senator Lanza, it would pick up the zip code. The zip code would indicate which county.

SENATOR LANZA: Thank you, Mr. President. Thank you, Senator Addabbo.

SENATOR ADDABBO: Thank you, Senator Lanza.

ACTING PRESIDENT VALESKY: Thank you, Senator Lanza.

Senator Marcellino.

SENATOR MARCELLINO: Senator Addabbo -- would the Senator yield?

ACTING PRESIDENT VALESKY: Senator Addabbo, do you yield?

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR MARCELLINO: Senator, I just have one question.

Is there anything in law right now that would prevent the Board of Elections from

just doing this if they were asked to do it?

SENATOR ADDABBO: Mr. President, through you. I would think not, Senator Marcellino. The fact that they have not done it so far.

And you know, we may have a cooperative working relationship now with the Board of Elections, and maybe years from now we may not. So it's safer to codify.

You know, as I mentioned earlier, this bill codifies practices already being done. And it may seem redundant to some, but we are therefore codifying the practice and taking it an extra step.

SENATOR MARCELLINO: Thank you, Senator.

SENATOR ADDABBO: Thank you.

SENATOR MARCELLINO: Mr. President, on the bill.

ACTING PRESIDENT VALESKY: Senator Marcellino, on the bill.

SENATOR MARCELLINO: We have here a situation where the New York State Legislature is enacting a law to tell a

commissioner, to force a commissioner to do something that is frankly common sense. Just plain common sense.

Both commissioners, representative of the parties involved, could simply say, Let's do this. It makes sense to do it, put it up the website, put this thing so it's a benefit to every person running for office that the correct address be on the website so that the ballot gets mailed to the appropriate place. I don't understand the need.

In EnCon, in the Environmental Committee this morning, we did legislation requiring the City of New York to put out garbage pails. We're requiring the City of New York to put out more garbage pails.

You know, it seems to me that that's a City Council prerogative, we didn't need the State Legislature to do this, but yet the State Legislature moved a bill to force the city to put out more garbage pails. I don't understand this.

We did another bill out of the same committee early on to ask the commissioner or

to force the commissioner of the DEC to put information on his website, on the department's website, something that could be done by simply somebody sending a memo to the commissioner, Pete Grannis, and saying: "Dear Pete, we think it's a great idea, why not do this?" I am sure Pete -- I know him, most of us do -- would do it. Yet we force him to do it by law.

I do not understand the passing of bills that frankly do not and should not get to the level of this Legislature. I mean, if I was in the city, I think I would be a little annoyed that the State Legislature is micromanaging my city.

I would be equally distressed if the federal government came in here and micromanaged the state government. We'd be annoyed. We wouldn't want them telling us what to do. It's not their prerogative.

It's not our purpose here to tell the commissioner what to do on something that is frankly common sense. Common sense. Just do it. Why are we wasting the time of the

Legislature in enacting laws like this?

In my mind -- no offense, Senator, I understand what you're trying to do. It makes a lot of sense. One would think it would be done automatically by the commissioner, because it is common sense.

And as these other examples, we shouldn't be involved in this sort of thing. A memo could do this.

Thank you.

ACTING PRESIDENT VALESKY: Thank you, Senator Marcellino.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Would Senator Addabbo answer a question.

ACTING PRESIDENT VALESKY: Senator Addabbo, do you yield?

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR DeFRANCISCO: Senator Addabbo, I'm reading the justification for this bill, and it says that voters who are in

a new area and even some of those that have resided there for a considerable time may not know what county they reside in.

My question basically is this. Don't you think we have to at least give people enough credit and require enough responsibility before they vote to know what county they reside in without the government being forced to do something automatically for them?

SENATOR ADDABBO: Mr. President, through you. In just more detail -- maybe the wording may be a little off -- but it's where somebody believes they live in Brooklyn, and they do live in Brooklyn, but the proper name is Kings County. Some people may not know the proper name of the county in which they live. Like I referred to, Staten Island being Richmond County. That basically is what that sentence is to address.

SENATOR DeFRANCISCO: Would Senator Addabbo yield to another question?

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

SENATOR ADDABBO: Yes, Mr. President.

ACTING PRESIDENT VALESKY: The sponsor yields.

SENATOR DeFRANCISCO: In the bill memo it also says that it also enables the public and groups involved in voter registration in order to get this information automatically.

Isn't that really the reason that this bill is being proposed, to assist groups who organize registration drives for various voters? Isn't that the real reason?

SENATOR ADDABBO: Mr. President, through you. In all honesty, this is to help the individual voter -- prospective voter, qualified voter -- to register.

There are groups that do voter registration drives, that may be a fringe benefit. But this bill is specifically to benefit the individual person who wants to register online.

SENATOR DeFRANCISCO: On the bill.

ACTING PRESIDENT VALESKY:

Senator DeFrancisco, on the bill.

SENATOR DeFRANCISCO: It would seem to me that an individual who wants to vote and has to fill out a piece of paper, online or otherwise, ought to be able or at least be required and responsible to know what county they're in. And to be able to fill that little form out with the county in which they reside. And if they're confused about it, maybe they could call somebody.

But to have a system that requires, I think at some expense, the Board of Elections to do something automatically that is something that individual should be responsible for -- I mean, we're getting to the point now where an individual doesn't have to be responsible for anything, that the government is going to take care of everything for them.

And it seems to me the real reason -- and I understand Senator Addabbo's answer, but the real reason isn't to help people who don't know where they live or what

county they're in, the real reason is to help voter registration drives.

And to me, that doesn't justify the additional cost and an additional mandate on government which is going to -- which is, with all our additional mandates, we're continuing to bankrupt this state and having businesses close like they have, Mr. President, in our county recently. Magna closed, the Crucible Steel just went into bankruptcy, Syracuse China closed. All the big manufacturing businesses in our community.

And unless we start with some of these little things that are -- should be the responsibility of individuals and stop requiring government to do things, we're never going to get to reverse this trend of government being responsible for everything.

So I'm going to vote no on this legislation. Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator DeFrancisco.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: On the

bill, Mr. President.

ACTING PRESIDENT VALESKY: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I have to say I listened to the dialogue so far with what started out as amusement and then turned to bafflement and now has turned to a little bit of incomprehension tending towards anger.

Yes, democracy costs money, ladies and gentlemen. It does cost money. We can save a lot of money by having all the polling places only open an hour a day. Mm-mm, there's a practical, cost-saving solution.

This bill is an absolute no-brainer. All it does is make it easier for people to vote yes. Senator DeFrancisco, all this does is help voter registration drives. This helps get more people to participate in the democratic process.

Now, some of you come up with reasons to oppose all of the bills to open up the democratic process, to make it easier to ensure that everyone eligible to vote can vote.

Senator Addabbo is beleaguered by these types of argument on bills that I would suggest are fundamentally and quintessentially American bills. This legislation we're moving through Elections this year is continuing the wonderful trend of our history, with some ups and downs, to open up the process so more people can vote, so it's easier to vote, so it's easier to find out where you should vote and who you're eligible to vote for.

This is an extraordinarily modest bill. It's not going to cost a lot of money. As has been pointed out, it's being done in much of the state already. This is democracy. And if you're not willing to invest in that, then I think it's fundamentally un-American.

So I would suggest that everyone here should think back to how we start the sessions with the Pledge of Allegiance and take an American vote, vote to open the process, support Senator Addabbo's bill.

I vote yes. Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank

you, Senator Schneiderman.

Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: I think to analogize my concerns with this bill with limiting the number of hours that you're able to vote is a bad analogy, to put it mildly.

And secondly, I think what we always seem to forget in these chambers is that to be an American and to be in a democracy requires a little bit of effort and a little bit of responsibility. And this may not be the best example, but it's a small example of where we're going down this slippery slope where government has got to do everything to make it easier for anybody to do anything.

If you have the right to vote in this country and you don't have enough responsibility to know what county you live in, well, I don't think that's right. There's many countries that don't have this ability.

And to come to this country and not at least know where your county is so you can

fill in a voter registration form I think is wrong.

And I don't think that the fact that voter groups want to try to register you is a justification for people not to be responsible and exercise their right to vote in a responsible way.

Thank you, Mr. President.

ACTING PRESIDENT VALESKY: Thank you, Senator DeFrancisco.

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

Seeing none, the debate is closed.

The Secretary will ring the bell. I ask all Senators to proceed immediately to the chamber so that we may commence with the roll call.

The Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day after it shall have become a law.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

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

I will be brief, because this obviously is a very significant piece of legislation as it relates to voting rights.

But it brings to mind some guests that are here, who were here for farmworkers rights. And so I just wanted to take a moment to acknowledge them and the struggle that they're going through as we are also looking at the struggles of improving our voting rights machinery and improving the opportunities for people to participate. And I wanted to just make sure that they knew that we have them in mind as well.

Thank you very much. I vote aye.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 61. Nays, 1. Senator DeFrancisco to be recorded in the negative.

ACTING PRESIDENT VALESKY: The bill is passed.

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

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

ACTING PRESIDENT VALESKY: There is no further business.

SENATOR KLEIN: There being none, Mr. President, I move we that adjourn until Wednesday, May 13th, at 11:00 a.m.

ACTING PRESIDENT VALESKY: On a motion by Senator Klein, the Senate stands adjourned until Wednesday, May 13th, at 11:00 a.m.

(Whereupon, at 4:37 p.m., the Senate adjourned.)