NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 20, 2009

11:20 a.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, Tuesday, May 19, the Senate met pursuant to adjournment. The Journal of Monday, May 18, 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 Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Bonacic, on page 25 I offer the following amendments to Calendar Number 243, Senate Print Number 3183, and ask that the said bill retain its place on the Third Reading Calendar, sir.

ACTING PRESIDENT VALESKY: So ordered.

Senator Klein.

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

ACTING PRESIDENT VALESKY: There are, Senator.

The Secretary will take the

substitutions up at this time.

THE SECRETARY: On page 30, Senator Foley moves to discharge, from the Committee on Transportation, Assembly Bill Number 6051A and substitute it for the identical Senate Bill Number 1624C, Third Reading Calendar 302.

ACTING PRESIDENT VALESKY: Substitution ordered.

Senator Klein.

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

Pending the return of both committees, can we please stand at ease.

ACTING PRESIDENT VALESKY: Immediate meeting of the Rules Committee in the Majority Conference Room, Room 332, followed by a meeting of the Finance Committee in the same location.

The Senate will stand at ease

pending the report of the Finance Committee.

(Whereupon, the Senate stood at ease at 11:22 a.m.)

(Whereupon, the Senate reconvened at 11:49 a.m.)

ACTING PRESIDENT VALESKY: The Senate will return to order.

Senator Klein.

SENATOR KLEIN: Mr. President, may we return to the order of reports of standing committees. I believe there is a report of the Finance Committee at the desk.

ACTING PRESIDENT VALESKY: There is a report of the Finance Committee at the desk.

And the Secretary will read.

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

As chairman and member of the Dormitory Authority, Alfonso Linwood Carney, Jr., of New York City.

ACTING PRESIDENT VALESKY: Senator Kruger.

SENATOR CARL KRUGER: Please move the nomination.

ACTING PRESIDENT VALESKY: Are there any Senators who wish to be heard on the motion to confirm the nominee?

Seeing none, the question is on the motion to confirm the nomination of Alfonso Linwood Carney, Jr., as chairman of the Dormitory Authority of the State of New York. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The nominee is confirmed.

Mr. Carney is with us in the gallery today. Congratulations.

(Applause.)

ACTING PRESIDENT VALESKY: The Secretary will continue to read.

THE SECRETARY: As director of the New York State Urban Development Corporation, Derrick D. Cephas, of New York

City.

ACTING PRESIDENT VALESKY: Senator Kruger.

SENATOR CARL KRUGER: Please move the nomination.

ACTING PRESIDENT VALESKY: Are there any other Senators who wish to be heard on the motion to confirm the nominee?

Seeing none, the question is on the motion to confirm the nomination of Derrick D. Cephas as director of the New York State Urban Development Corporation. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The motion carries. The nominee is hereby confirmed.

Mr. Cephas joins us as well. He's in the gallery. Congratulations.

(Applause.)

ACTING PRESIDENT VALESKY: The

Secretary will continue to read.

THE SECRETARY: As Major General, New York Guard, Fergal I. Foley, of Hopewell Junction.

As Major General, 42nd Infantry Division, New York State National Guard, Steven N. Wickstrom, of Upton, Massachusetts.

And as a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at St. Albans, Thomas X. Winberry, of Rego Park.

ACTING PRESIDENT VALESKY: Senator Kruger.

SENATOR CARL KRUGER: Please move the nominations.

ACTING PRESIDENT VALESKY: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will Senator Kruger answer a question on one of the nominations?

ACTING PRESIDENT VALESKY: Senator, do you yield?

SENATOR CARL KRUGER: Yes, I do.

ACTING PRESIDENT VALESKY: The

Senator yields.

SENATOR FUSCHILLO: Thank you, Mr. President.

Senator, I just looked at the sheet. And with respect to Mr. Wickstrom, it states here he's not a resident of New York State, he's a resident of Massachusetts.

He's going to be the head of -- and I was not in the meeting, Mr. Chairman. I'm just asking this for a point of information.

SENATOR CARL KRUGER: He's currently not a resident of New York State. He was at one point.

This is an unpaid position, I might add.

SENATOR FUSCHILLO: Right. So we're appointing him Major General of the New York National Guard, but the Major General of the New York National Guard is going to be a resident of Massachusetts?

SENATOR CARL KRUGER: It's the Naval Militia, Senator.

SENATOR FUSCHILLO: Thank you very much, Senator.

ACTING PRESIDENT VALESKY: Thank you, Senator.

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 in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT VALESKY: The nominees are hereby confirmed.

Senator Klein.

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

ACTING PRESIDENT VALESKY: There is a report of the Rules Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Smith, from the Committee on Rules, reports the

following bill direct to third reading:
Senate Print 5525, by Senator Squadron, an act to amend the Arts and Cultural Affairs Law.

ACTING PRESIDENT VALESKY: Senator Klein.

SENATOR KLEIN: I move to accept the report of the Rules Committee at this time.

ACTING PRESIDENT VALESKY: All in favor of accepting the report of the Rules Committee please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT VALESKY: Opposed, nay.

(No response.)

ACTING PRESIDENT VALESKY: The report of the Rules Committee is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we move to a reading of Senate Calendar Number 49.

ACTING PRESIDENT VALESKY: The Secretary will proceed with the reading of Senate Calendar Number 49.

THE SECRETARY: Calendar Number 94, by Senator Montgomery, Senate Print 1290A, an act to amend the Correction Law, in relation to pregnant female prisoners.

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, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 197, by Senator Winner, Senate Print 3224, an act to amend the Tax Law, in relation to extending the authorization.

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

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, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 201, by Senator Little, Senate Print 3505, an act to amend the Tax Law, in relation to extending the authorization granted.

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

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 213, by Senator Larkin, Senate Print 647A, an act to remove from the Albert Wisner Memorial

Public Library service area.

ACTING PRESIDENT VALESKY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of July.

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 217, by Senator Stewart-Cousins, Senate Print 3336, an act to amend the Local Finance Law, in relation to bonds and notes of the City of Yonkers.

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

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, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 268, by Senator Stavisky, Senate Print 1741, an act to --

SENATOR KLEIN: Can we lay the bill aside for the day.

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

THE SECRETARY: Calendar Number 272, by Member of the Assembly Gottfried, Assembly Print Number 730, an act to amend the Public Health Law, in relation to exemption.

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, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 279, by Member of the Assembly Hooper, Assembly Print Number 7665, an act to amend Chapter 203 of the Laws of 1999, amending the Environmental Conservation Law.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 284, by Senator Valesky, Senate Print 2861, an act to amend the County Law, in relation to communication service surcharges.

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

Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 295, by Senator Squadron, Senate Print 3530, an act in relation to authorizing and directing.

ACTING PRESIDENT VALESKY: Read the last section.

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

ACTING PRESIDENT VALESKY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 61.

ACTING PRESIDENT VALESKY: The bill is passed.

THE SECRETARY: Calendar Number 302, substituted earlier today by Member of the Assembly Sweeney, Assembly Print Number

6051A, an act to amend the Vehicle and Traffic Law, in relation to operation.

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: Senator Foley, to explain his vote.

SENATOR FOLEY: Thank you, Mr. President.

Today is a very important day for our firefighters throughout the State of New York. Today, with the adoption of this resolution, we'll be reinstating the exemption for our firefighters to operate our large heavy equipment throughout the State of New York as it relates to fire districts.

This is something that has enjoyed broad support, geographically and also within this chamber and the chamber in the Assembly. It's one of these instances where it crosses

party lines with broad bipartisan support, not just on the adoption of the measure but also on the cosponsorship.

So I'm very, very pleased to have worked with our colleagues here in the Senate, along with a number of, let's say, interested parties throughout this state, from northern portions to the City of New York to Long Island, where in one voice we are saying thank you to our firefighters and giving back to them something that they had enjoyed for decades, and that is this particular exemption.

What's most, let's say, noteworthy and timely is the fact that by passing this today, and with unusual speed, it's my understanding that the Governor will sign this into law so that all the fire departments throughout this state will be able to participate fully in this coming weekend's Memorial Day parades, which we know is part and parcel of the culture of so many communities within this state, as it is within our country.

So it's a very important day, if you will, for our firefighters, both paid and volunteers, and it's a way that we can say thank you to them. And as much as this may have been and should have been passed some time ago, we finally arrived at a point where we will adopt this prior to Memorial Day services and parades.

So I want to thank my colleagues for their strong support, and I particularly want to say thank you to Senator Bonacic, who during the budget proceedings the other month, where there were some harsh words expressed in a variety of ways, but he had reached out to say and in particular to thank this Senator for putting this bill forward.

We hope that this can be a confidence-building measure so that there are other pieces of legislation that we can do together as well.

And I also want to thank our Majority Leader, as well as our conference, in moving forward and being supportive of this proposal as well.

Thank you, Mr. President.

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

Senator Robach, to explain his vote.

SENATOR ROBACH: Yes, Mr. President.

I am very happy we're doing this bill today. This is important. And I want to thank the sponsor.

There were several bills in there, and the original bill getting amended to be more inclusive to protect, in every instance, firefighters from doing what they've been doing for a number of years.

And this is one of those examples where this level of government, us in this chamber and across the hall, can say to some degree we cleaned up or fixed what was a very, very bad interpretation.

For those of you that are involved in fire service, for a number of years the same condition existed -- I'm not sure if it's

the federal government or somebody at our end bureaucratically, but for the first time decided driving to an event, a fire event or emergency, would only constitute getting there to put out the fire but not driving the apparatus back to the firehouse.

So in the interim, what I had been instructing people to do was start a fire in the wastebasket, call it then, then you'd be able to legally drive your fire truck back to the firehouse, thanks to bad bureaucratic decision-making.

But this bill, on a serious note, will really clean that up and even go above and beyond that, for training and other events that volunteer firefighters and others do on a regular basis that not only makes our community safer but enhances it.

I'm very happy to get this done and join everyone and say a job well done.

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

Senator Craig Johnson, to explain

his vote.

SENATOR CRAIG JOHNSON: Thank you, Mr. President.

I rise to support this measure and truly to commend Senator Foley, who picked up this measure and worked through some very complex issues, had a few roadblocks, stuck with it, was persistent, and today we can proudly vote in the affirmative to fix a problem that never should have been a problem.

And so I want to thank you, Senator Foley, for the firefighters who are in the 7th Senatorial District, the men and women who reached out to me and said this was a big problem, not just about the parades that are going to happen over the weekend and July 4th, but also the safety issues that it created, the lack of foresight by those who tried to interpret the rule in an inappropriate and incorrect way.

So congratulations, Senator Foley. I'm happy that the Governor is going to sign this quickly and it will become law. I'll be voting yes.

Thank you, Mr. President.

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

Senator Bonacic, to explain his vote.

SENATOR BONACIC: Thank you, Mr. President.

Our volunteer firefighters are the backbone of our upstate communities. And I just wanted to thank Senator Foley; Senator Carl Kruger, who said that he would address this during the budget process; Senator Schneiderman for expediting it through the Codes Committee.

Today is an example of how, with bipartisan cooperation, we can get things done quickly and do something in a very beneficial and constructive manner that helps our heroes.

Thank you to all of you. I vote yes.

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

Senator Stachowski, to explain his vote.

SENATOR STACHOWSKI: Yes, Mr. President. I too would like to stand and commend Senator Foley on his work on this bill and jumping through all the hoops that were put in front of him and to have worked with everybody else to help our volunteer firemen.

Because we all work with them exclusively in our districts. They brought a problem to us, everybody jumped in to be supportive. Senator Foley has the bill; it's very important.

And hopefully the Governor or his people are listening and he'll sign the bill today or tomorrow, because there's a lot of parades this weekend for Memorial Day, and a lot of volunteer fire companies have already alerted the parade people that they won't be participating with their vehicles because they're not allowed to drive them in parades if they don't have a CDL-licensed driver available on the day of the parade.

So it would be a shame that all

those little kids lining up as part of the Memorial Day ceremony for those communities that have parades won't get to see the fire trucks that they grow accustomed to seeing and look forward to seeing because we didn't get the bill signed in time. And so there is a sense of urgency.

I commend the sponsors in each house for their rapid movement on this, and hopefully the second floor will sign it in a rapid fashion also and we can alleviate this problem in time to help with the participation as well as all the day-to-day problems that this situation had brought up for our volunteer firemen.

Thank you.

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

Senator Ranzenhofer, to explain his vote.

SENATOR RANZENHOFER: Thank you, Mr. President.

I also rise to support this very

common-sense legislation. This is really government getting out of the way and letting volunteer firefighters do their job.

With the ranks of volunteer firefighters down, we need to do everything that we can to encourage recruitment and retention of volunteers. And what they do in our communities in terms of the number of hours that they have to put in, what they do to save our homes, our businesses and our lives, really goes -- you can't say enough about that.

So this is a very strong piece of legislation, a common-sense piece of legislation which should be supported, and I'm going to vote to support it.

Thank you.

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

Senator Leibell, to explain his vote.

SENATOR LEIBELL: Thank you, Mr. President.

This is one of those things that when you go home to your district you hear about everywhere you go. Over the last few weeks and months, every volunteer firefighter I think I met brought this up as a serious issue that would impact on their ability to serve as volunteers in our communities to protect all of our families, frankly, while we're all up here. Or down here, as the case may be.

So this is an important piece of legislation. I'm pleased to see that it's been passed in a bipartisan fashion. And I'm optimistic the Governor will sign this quickly.

Thank you.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 61. Nays, 0.

ACTING PRESIDENT VALESKY: The

bill is passed.

Senator Klein, that completes the reading of Senate Calendar Number 49.

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

ACTING PRESIDENT VALESKY: There is none.

SENATOR KLEIN: There being none, I move we adjourn until Tuesday, May 26th, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT VALESKY: On a motion by Senator Klein, the Senate stands adjourned until Tuesday, May 26th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:05 p.m., the Senate adjourned.)