NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 10, 2023

11:13 a.m.

REGULAR SESSION

LIEUTENANT GOVERNOR ANTONIO DELGADO, President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I ask everyone present to please rise and recite the Pledge of Allegiance.

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

THE PRESIDENT: In the absence of clergy, let us bow our heads in a moment of silent reflection or prayer.

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, January 9, 2023, the Senate met pursuant to adjournment. The Journal of Sunday, January 8, 2023, was read and approved. On motion, the Senate adjourned.

THE PRESIDENT: 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 Gianaris.

SENATOR GIANARIS: Mr. President, at this time I move to adopt the Resolution Calendar.

THE PRESIDENT: All those in favor of adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Gianaris.

SENATOR GIANARIS: There is a Concurrent Resolution at the desk. I ask that the resolution be read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Resolution 174, by Senator Stewart-Cousins, Concurrent

Resolution of the Senate and Assembly providing for a joint assembly for the purpose of receiving a message from the Governor.

THE PRESIDENT: All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed?

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Gianaris.

SENATOR GIANARIS: Can we take up the reading of the calendar, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 2, Senate Print 136, by Senator Krueger, an act to amend the Election Law.

SENATOR LANZA: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 6, Senate Print 585, by Senator May, an act to amend the Election Law.

SENATOR LANZA: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 7, Senate Print 587, by Senator Comrie, an act to amend the Election Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: In relation to Calendar Number 7, those Senators voting in the negative are Senators Borrello, Helming, Lanza, Murray, Oberacker, O'Mara, Ortt, Stec, Walczyk, Weber and Weik. Also Senator Rhoads.

Ayes, 49. Nays, 12.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 8, Senate Print 609, by Senator Hoylman, an act to amend the Election Law.

SENATOR LANZA: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 10,

Senate Print 611, by Senator Mayer, an act to amend the Election Law.

SENATOR LANZA: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 11, Senate Print 612, by Senator Mayer, an act to amend the Election Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: In relation to Calendar Number 11, those Senators voting in the negative are Senators Canzoneri-Fitzpatrick, Helming, Lanza, Mattera, Murray, Oberacker, O'Mara, Ortt, Rhoads, Weber and Weik. Also Senator Borrello.

Ayes, 49. Nays, 12.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 12, Senate Print 613A, by Senator Myrie, an act to

amend the Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 13, Senate Print 614, by Senator Myrie, an act to amend the Election Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: In relation to Calendar Number 13, those Senators voting in the negative are Senators Borrello, Gallivan,

Helming, Mattera, Murray, Oberacker, O'Mara, Rhoads, Rolison, Stec, Tedisco, Weber and Weik. Also Senator Canzoneri-Fitzpatrick.

Ayes, 47. Nays, 14.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 15, Senate Print 617, by Senator Myrie, an act to amend the Election Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day after it shall have become a law.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Borrello to explain his vote.

SENATOR BORRELLO: Thank you, Mr. President.

You know, this is not a bad idea, but unfortunately good ideas and bad ideas often come out of Albany with no funding to execute them, as are a lot of these bills. And after 10 years in county government, I can tell you that unfunded mandates are crippling, especially

on small communities.

So we might have some great ideas; I really suggest we put money behind the great ideas. The bad ideas we should just not do.

But thank you, Mr. President.

THE PRESIDENT: Senator Borrello is recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar Number 15, those Senators voting in the negative are Senators Borrello, Murray, Rhoads, Weber and Weik. Also Senator O'Mara.

Ayes, 55. Nays, 6.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 16, Senate Print 619, by Senator Krueger, an act to amend the Election Law.

SENATOR LANZA: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 17, Senate Print 644, by Senator Mannion, an act to amend the Election Law.

SENATOR LANZA: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 18,

Senate Print 645, by Senator Mannion, an act to amend the Election Law.

SENATOR LANZA: Lay it aside.

THE PRESIDENT: Lay it aside.

Senator Gianaris, that completes the reading of today's calendar.

SENATOR GIANARIS: Can we now move to the reading of the controversial calendar, please.

THE PRESIDENT: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 2, Senate Print 136, by Senator Krueger, an act to amend the Election Law.

THE PRESIDENT: Senator Rhoads.

SENATOR RHOADS: Thank you, Mr. President. Will the Senator yield to a question?

SENATOR KRUEGER: Happily, Mr. President. Good morning.

SENATOR RHOADS: Good morning.

I notice in the bill that there's a discrepancy between how much New York City inspectors are paid versus inspectors in the rest

of the state. What's the justification for that?

SENATOR KRUEGER: So for New York City, it actually sets an amount.

And for New York State, the rest of the state, it leaves it to county option, as long as it's at least the $300 a day base. So they can go up to the level of New York City or not, as they wish.

SENATOR RHOADS: Why is the amount for New York City -- oh, sorry. Will the Senator yield, continue to yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR KRUEGER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR KRUEGER: So I think this bill dates back two years now. And the problem that we've been having in the City of New York is actually finding enough people to do these jobs.

You know, these are incredibly demanding jobs, as we all know throughout the state. In New York City our polls open at 6 a.m. I don't think that is statewide, but they do open at 6 a.m. They close at 9 p.m. So our workers are actually expected to be there by 5:00 in the

morning and stay there till probably 10:00 at night.

So you're talking about 16-to-18-hour days. Granted, it's only a couple of days a year, but these are enormously long days. And we are finding it very difficult to find workers.

And so I know our previous mayor -- granted, we have a new mayor now. But our previous mayor at the time I was working on this bill was like, "I have money to give the Board of Election so they can get their job done, but no one's asking me for it." And technically they didn't have the power to raise the amounts without the state acting.

So we started to work on that bill, and those were the numbers that we thought were reasonable for the City of New York, which I think most of you know is a tad more expensive in everything than anywhere else in the state.

So then I had other colleagues asking me to do this statewide because of similar problems, but we decided not to go beyond a certain base for the rest of the state. But if that county then chooses to go up, of course they

can.

SENATOR RHOADS: Would the Senator continue -- will the sponsor continue to yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR KRUEGER: Yes, I will.

THE PRESIDENT: The sponsor yields.

SENATOR RHOADS: Thank you.

The question was -- for me, the question was, why is the amount in New York City fixed as opposed to the rest of the state having the ability to have a minimum threshold?

SENATOR KRUEGER: So would the City of New York like to go above that.

I think if the City of New York came back to the Legislature and said "We want to go even higher," we would probably say fine. The City of New York has a large staff who come to the Legislature and lobby for them all the time. So if they are open to that, I am sure we would be open to considering that also.

SENATOR RHOADS: Will the Senator continue to yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR KRUEGER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR RHOADS: Was this bill contemplated in conjunction with Senate Bill 609, which is No. 8 on today's calendar?

SENATOR KRUEGER: They all went through the Elections Committee. We held a series of hearings around the state on things that needed to be changed for elections, led by the chair of our Elections Committee, Senator Myrie. And many, many different proposals were brought to us in testimony. I think both of these proposals were testified about in the various hearings.

But no, I don't think Senator Hoylman and I specifically ever talked about these two bills in relationship to each other. Although he has a better memory than me, so if he wants to stand up and correct me, he can.

SENATOR RHOADS: Will the sponsor continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR KRUEGER: Yes, I do.

THE PRESIDENT: The sponsor yields.

SENATOR RHOADS: My -- my concern, Senator, is that if 136 were to pass and become law, in my reading of both bills there's no provision for splitting the $300 -- or $350 in the City of New York -- if there's split time, so that both would be getting the $300 or $350 even though they're doing eight hours work as opposed to 15 hours work, 16 hours work.

SENATOR KRUEGER: I understand the question. I appreciate that.

So I think my intent was for it to be on a full day. And if I -- if I'm correct or incorrect on that, I am actually quite confident that through chapter amendment we can clarify that.

SENATOR RHOADS: And will the sponsor continue to yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR KRUEGER: Yes, I do.

THE PRESIDENT: The sponsor yields.

SENATOR RHOADS: Would -- would the Senator consider withdrawing and amending Senate 136 to make it clear, rather than fixing

it later through a chapter amendment which we may or may not get to?

SENATOR KRUEGER: So I think that we have it on the calendar today, I think it's an important thing to try to do. It is of course extremely early in the session, so I can actually tell you that we probably have more than enough time to bring back a second version of the bill to the floor and correct it that way, and not have to worry about the chapter amendment question.

Usually a chapter amendment question comes up when you and I have this kind of debate -- excuse me, Mr. President -- on the last day of session, as opposed to on the second day of session. So I actually think there would be time to make changes in this bill before the end of session.

But speaking for myself, I would love for us to be able to move this package of election reforms and board of election reforms today.

SENATOR RHOADS: Thank you, Senator.

Would the Senator continue to yield

to one additional question?

THE PRESIDENT: Does the sponsor yield?

SENATOR KRUEGER: Yes, of course.

THE PRESIDENT: The sponsor yields.

SENATOR RHOADS: Again with respect to -- as Senator Borrello brought up, with respect to an earlier point -- the issue of cost. Is there any -- do we have any idea as to what the cost to boards of elections would be associated with this bill?

SENATOR KRUEGER: Our projections are approximately $17 million across the state. Although it's tricky to know for sure, because we put a base for everything outside New York City. But of course those counties could decide to go above the base, and then of course the cost would be more.

But I'd say our estimate is approximately 17 million annual -- um -- yes, annually.

SENATOR RHOADS: And as an attorney, this is the next last question.

(Laughter.)

THE PRESIDENT: Does the sponsor

yield?

SENATOR KRUEGER: He can have more than the next to the last question, yes, Mr. President.

(Laughter.)

THE PRESIDENT: The sponsor yields.

(Inaudible discussion.)

SENATOR RHOADS: Yeah, I mean, with --

SENATOR KRUEGER: There's some mean people in here.

(Laughter.)

SENATOR RHOADS: With a -- and as correctly pointed out, with a split shift, and obviously that could increase to $34 million, theoretically.

SENATOR KRUEGER: I'm quite confident that if for some reason we ended up in the situation where there was split shift, that the intention for myself was that this would be a full day's pay, so recording that cost also. So I don't believe that we would move forward through the both houses with it being double that, but rather adjusting for the reality if there are split-shift assignments.

SENATOR RHOADS: And third final question.

THE PRESIDENT: Does the sponsor yield?

SENATOR KRUEGER: Yes, I do.

THE PRESIDENT: The sponsor yields.

SENATOR RHOADS: Is there any intention to provide any of the counties with funding at some point in time to cover the cost of $17 million -- or 34 million -- projected based upon the effect of the bill?

SENATOR KRUEGER: So the plus also of doing this bill at the very beginning of session is we haven't even started our discussions about the budget yet. And this house has a history of working to add additional money to the state budget in appropriation language to provide counties with additional funds they need for election changes. Because we have been making many election changes in the last several years, and we have committed and been successful in moving additional money to the counties to pay for those things.

So I would love to work with you on making sure that we appropriated correct monies

to the counties for all the different proposals that we're making to improve people's ability to vote in all of our counties.

SENATOR RHOADS: Thank you, Senator.

Thank you, Mr. President.

THE PRESIDENT: Are there any other Senators wishing to be heard?

Seeing and hearing none, debate is closed. The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: In relation to Calendar Number 2, those Senators voting in the negative are Senators Ashby, Borrello, Gallivan, Helming, Murray, Oberacker, O'Mara, Ortt, Stec, Tedisco, Walczyk, Weber and Weik.

Ayes, 48. Nays, 13.

THE PRESIDENT: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 6, Senate Print 585, by Senator May, an act to amend the Election Law.

THE PRESIDENT: Senator Walczyk.

SENATOR WALCZYK: Thank you, Mr. President. Would the sponsor yield for some questions.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Yes, I would.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Thank you. Good morning still. Yeah, good morning.

Mr. President, through you, what problem is this legislation trying to solve?

SENATOR MAY: Through you, Mr. President, this legislation is designed to solve a very simple problem, which is right now, if there is an election commissioner who is failing at the job, the only way to remove that commissioner is for the Governor to do it. That has proven cumbersome, not always possible to make happen. And this creates one more avenue for the removal of an elections commissioner who is not doing the job.

SENATOR WALCZYK: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Why are we taking it upon ourselves as the Legislature, in this case, to take over a role and decide how the Governor is going to -- to not do this job anymore? Why have we decided that this is going be the State Board of Elections that handles it?

SENATOR MAY: So we -- through you, Mr. President, we are not assuming the responsibility for removing elections commissioners, we are simply creating one additional means of doing this.

And I will say the reason that I am carrying this bill is because I used to represent two counties that were part of the old Congressional District 22, where there was a race in 2020 in which the judge struggled for months to try to figure out what the outcome of that race should be, because elections commissioners

in all the relevant counties had made errors and some had made truly egregious errors. But there was no mechanism to remove these elections commissioners so that they would not go back to doing the job as badly as they had been doing it before.

So this creates one mechanism, and -- and honestly, a more fair mechanism and a bipartisan mechanism for removing elections commissioners.

SENATOR WALCZYK: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: I do.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: I appreciate the sponsor bringing up the -- the local anecdote that affected near her home. Would you describe for the body whether the current process was able to remove the elections commissioner that you say had egregious misconduct, or the way that you put it?

SENATOR MAY: So I'll -- I'll

answer it in two ways, through you, Mr. President.

Eventually they were removed. It was a lengthy and difficult process. But it really doesn't matter what happened in that one case. This is creating a general process that is, I think, more fair and -- and relies upon people who are close to and understand the Election Law and the -- the issues involved, rather than having to go to the Governor, who may be disengaged from this particular issue.

SENATOR WALCZYK: And through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Why couldn't we continue to rely on the duly elected Governor, someone who's been selected by the people of the State of New York in a free and fair election, to continue, even in the instance that was described, to follow the process that's laid out before us in removing an elections commissioner?

SENATOR MAY: Through you, Mr. President. I think we're all familiar with the case of Jason Schofield in Rensselaer County, who resigned before pleading guilty to election fraud. What if he had not resigned? There would have been a situation where the Governor would have to step in and remove that person. And in this case, the Governor being a Democrat and Mr. Schofield being a Republican, it would have been -- there would have been accusations of partisanship and who knows what.

So having the Governor solely in charge of this process actually injects politics into the process that this is intended to pull out of the process.

SENATOR WALCZYK: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Are -- are you aware that there's a move to remove the partisan balance that currently -- that partisan balance

and structure that currently exists within our Board of Elections?

SENATOR MAY: Through you, Mr. President, would you please clarify that question?

SENATOR WALCZYK: Through you, Mr. President, there's a bill on the agenda today that would remove the requirement that Democrat and Republican co-commissioners exist, instead moving more towards a professional and nonpartisan way to run our elections.

I was wondering if the sponsor was aware that there is a movement to remove the partisan nature and balance in our Board of Elections.

SENATOR MAY: Through you, Mr. President, could you please clarify which bill you're talking about?

SENATOR WALCZYK: Well, I -- through you, Mr. President, I'd rather stick to the -- to the bill that we're on right now currently. We'll debate that bill in its due time with its due sponsor. I just wanted to know whether you were aware that there was a movement to remove the partisan balance in boards of

elections.

SENATOR GIANARIS: Mr. President, in deference to Senator Walczyk, he is correct. Let's keep the debate on this bill and the substance of the paper before us, and Senator May will be happy to answer questions about her bill, not about another member's bill.

SENATOR WALCZYK: Thank you.

And through you, Mr. President, if the sponsor would continue to yield.

SENATOR MAY: I will.

THE PRESIDENT: Does the sponsor yield? The sponsor yields.

SENATOR WALCZYK: How would the Board of Elections define incompetence?

SENATOR MAY: Through you, Mr. President. The Board of Elections can issue regulations that make these definitions. They can also use past precedent to -- to make these kinds of decisions.

But to be honest, they are far better positioned to do so than the Governor is. So I believe they are the right people to make that determination.

SENATOR WALCZYK: Through you,

Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: I do.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Well, the sponsor of this bill has pointed out a local case in which the Governor did apply some of these terms and definitions in making the determination to eliminate or remove a Board of Elections commissioner. I wonder if the sponsor could tell us the definition, as she's written in this bill, of misconduct as the Boards of Elections should interpret it.

SENATOR MAY: Through you, Mr. President. Again, it's one of those things that you know it when you see it. But certainly the elections commissioners would know and be able to codify what that -- what constitutes misconduct.

But for example, in one of the counties in that congressional district, some -- well over 2,000 people showed up and registered to vote in a timely fashion, but the elections

commissioners had somehow arbitrarily decided that they weren't going to put new registrants on the rolls anymore. And so when those people who had duly registered to vote showed up to vote, they -- their names were not on the voting list.

So this is one reason why, in a race that was decided by about a hundred votes, we will never know if that outcome actually reflected the will of the voters. It was a pretty clear case of misconduct on the -- on the part of elections commissioners.

SENATOR WALCZYK: Thank you.

Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: I do.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: I'm -- I'm wondering if you could explain how the Board of Elections may define "good cause" differently than the Governor would in this case, and how they will define "good cause" when removing a commissioner of the Board of Elections.

SENATOR MAY: Through you,

Mr. President, there's no reason why they would necessarily define it differently. This is just creating an additional set of eyes that can make that determination.

SENATOR WALCZYK: And through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: I will.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Who could bring a complaint that would be forwarded to the Board of Elections and ultimately allow them to make a determination whether to remove a commissioner of the Board of Elections or not? Who can move a complaint forward?

SENATOR MAY: Through you, Mr. President, the Boards of Elections would make that decision on their own. I -- I assume they could -- they might hear from people and make -- and -- and be prompted to make that decision.

But we have set up a fair process where the person who is being accused of this misconduct would have the opportunity to -- to

know what the charges were and to be heard in their defense.

SENATOR WALCZYK: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: I do.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: So if I'm understanding that correctly, any citizen in the State of New York that has an issue with the way that their board of elections commissioner -- they either view them to be incompetent, have some kind of misconduct or have good cause, could bring a complaint forward with Board of Elections and have a determination made by the State Board, if this bill is enacted, as to whether that commissioner will be removed or not? Is that correct?

SENATOR MAY: Mr. President, I believe that's true.

Through you, Mr. President, a citizen could make the Board of Elections aware of -- of misconduct that they believe has

occurred, but they do not have a right to get a determination. It would be up to the Board of Elections to make that -- to decide whether it was worthy of having this process.

But I think we've set up a fair process where they would, as I said, you know, the person gets due process and it would have to be decided by a majority of the commissioners, which means a bipartisan decision.

SENATOR WALCZYK: Thank you.

Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Sure.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: What triggers would cause the State Board of Elections to consider or hear a case? Would it be the nature of incompetence, misconduct or good cause, as they've been loosely defined in this bill, or the mass number of citizens of the State of New York, if they've heard from 20 citizens or 200 citizens about some of these things? Or is it just one case where it would be a good cause or some level

of incompetence?

SENATOR MAY: Through you, Mr. President. We're not setting up any new process here, it is just a different group of people who can make the determination. But the process is the same as it would be with the Governor. And -- and they -- they can determine what the threshold should be, but we are not setting what the threshold would be.

SENATOR WALCZYK: And through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: I do.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: I'm not aware -- and perhaps you could make me aware. I'm not aware of any threshold that exists in the current process that the Governor uses, that this is held in the executive branch and is something that a duly elected Governor could decide, but something that I think we should consider here.

If there's -- if there is thresholds that the Governor uses in the current process

that you reference, would you -- would you put those forward for us to consider here today?

SENATOR MAY: Through you, Mr. President, there are not set rules for this right now. So it is pretty arbitrary. I think this would actually make it more fair and more transparent and -- and more bipartisan, as I have said before.

SENATOR WALCZYK: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Sure.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Thank you.

Can you walk me through the hearing process a little bit, as you envision it with this enacted with the State Board of Elections? So a -- a commissioner is accused of incompetence, misconduct or good cause to have any of those. What type of defense would they have to have? Where would they appear?

SENATOR MAY: I'll read from what I have here. The bill requires that before

removal, the local election commissioner must be given a written copy of the charges against them and have an opportunity to be heard in their defense so that the process matches what already occurs when the Governor removes a commissioner.

SENATOR WALCZYK: And through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: It's exactly that line that I was looking for qualification on.

So when we say "charges against him or her" and "have an opportunity to be heard in his or her defense," where does that hearing happen at the State Board of Elections, who's present, and how does that process work?

SENATOR MAY: Through you, Mr. President, it would be an administrative procedure. And once again, I will reiterate that the State Board of Elections would set the guidelines and the -- the procedures in advance.

SENATOR WALCZYK: And through you,

Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: As this is considered an administrative procedure, would the elections commissioner from a local county elections be able to have legal defense at this hearing?

SENATOR MAY: Through you, Mr. President, yes.

SENATOR WALCZYK: And through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: I do.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Who sits on the -- on the dais in this hearing, playing judge and -- and jury in this instance?

SENATOR MAY: Through you, Mr. President, it would be the State Board of

Elections commissioners, who are duly confirmed, and they would make the rules in a bipartisan fashion.

SENATOR WALCZYK: Thank you.

Thank you, Mr. President.

THE PRESIDENT: Senator Martins.

SENATOR MARTINS: Mr. President, will the sponsor yield for a few questions?

THE PRESIDENT: Will the sponsor yield?

SENATOR MAY: I will.

SENATOR MARTINS: Thank you.

You know, I just had a question about the term "duly confirmed." Can you describe for us -- Mr. President, through you -- what that term means?

SENATOR MAY: Through you, Mr. President, so the State Board of Elections is made up of an equal number of commissioners from both parties. And I confess I don't know the exact process by which they are confirmed. But we're checking.

SENATOR MARTINS: Thank you.

Mr. President, through you, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: I do.

THE PRESIDENT: The sponsor yields.

SENATOR MARTINS: See, my concern is that there are -- there is a process in place to actually confirm members of the Board of Elections. And it is not uncommon for members of the Board of Elections commissioners to be holdovers, to not be confirmed. And therefore, I would ask if the sponsor has taken into consideration the eventuality that there are members who are members of the Board of Elections who are not duly confirmed, and what that would mean in the context of your proposed legislation.

SENATOR MAY: Through you, Mr. President, we can take a look at that question. It was not one that had occurred to us in the writing of the bill. But it seems like something that can easily, you know, be taken into account.

SENATOR MARTINS: Mr. President, through you, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor

yield?

SENATOR MAY: I do.

THE PRESIDENT: The sponsor yields.

SENATOR MARTINS: So to the -- to the extent that there may be some ambiguity and confusion with regard to what has been offered as a bipartisan effort, would it not be best, on a crucial issue of fairness and bipartisanship and allowing for the equities of the bill that you have frankly made a hallmark of your proposal -- sorry, Mr. President, through you -- would it not be best to withdraw this bill at this time to address that ambiguity, in the -- in an effort to actually ensure that there is bipartisanship included in this process and so that we are not limiting the review by those members of the Board of Elections who are actually duly confirmed?

SENATOR MAY: Through you, Mr. President. First of all, doing that would ensure that there was a partisan process, that the only process that remained was the partisan process of an elected Governor making this decision.

But I will also reiterate what Senator Krueger said, that I believe that there

is plenty of time and leeway to -- to address this very narrow question on the bill after we pass it.

SENATOR MARTINS: Mr. President, on the bill.

THE PRESIDENT: Senator Martins on the bill.

SENATOR MARTINS: And I thank the sponsor, of course.

Again, just the nature of what we're asking here would actually -- because of that particular phrase, would actually change the tenor of this bill. If we only have two members of the Board of Elections who are duly confirmed, or one, are we actually going to leave the process to that one or two individuals without having the necessary balance that we would expect as a body?

And again, it's a due process issue. In contrast to the bill that we considered earlier that had to do with dollars, had to do with whether or not we would be paying $300 for eight hours or $600 for 16 hours and how that would be constituted, this goes to the very point of this piece of legislation. It's a due process

issue.

And frankly, I'm concerned that, without clarity on this issue, that we're only going to have decisions made by not a full board, not a bipartisan commission, but by individual members who are duly confirmed -- as that has not been defined, but as we know, that there are members of the Board of Elections right now who are holdovers and continue to be holdovers. They're not duly confirmed, and therefore we're limiting the scope of who can or cannot make a decision.

For that reason, Mr. President, I'll be voting nay.

THE PRESIDENT: Are there any other Senators -- Senator Rhoads.

SENATOR RHOADS: Thank you, Mr. President. Will the -- will the sponsor yield to a question?

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Yes, I will.

THE PRESIDENT: The sponsor yields.

SENATOR RHOADS: Thank you, Senator. Good morning.

SENATOR MAY: Sure. Is it morning?
SENATOR RHOADS: It's still morning.
SENATOR MAY: Yup. Good morning.
SENATOR RHOADS: My understanding of -- of your rationale behind the bill is that there needs to be other people involved in the process of deciding whether an elections commissioner committed misconduct and needs to be removed. Is that correct?
SENATOR MAY: Through you, Mr. President, not exactly. The idea is here there needs to be an additional method available, because removal by the Governor is -- is actually extremely difficult to -- to make happen.
SENATOR RHOADS: And if the sponsor would continue to yield.
THE PRESIDENT: Does the sponsor yield?
SENATOR MAY: Of course.
THE PRESIDENT: The sponsor yields.
SENATOR RHOADS: Is that -- is that because of the Governor's time, the limits of her time? Is it because of the limits of her experience with respect to this particular issue?

What's the rationale?

SENATOR MAY: Through you, Mr. President, this isn't about this governor, it is about any governor.

SENATOR RHOADS: Any governor.

SENATOR MAY: And I believe it's always better to have people with expertise in the issue being -- making these, you know, consequential decisions.

SENATOR RHOADS: Would the sponsor continue to yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR RHOADS: There are several other processes and several other positions where the process is removal only by the Governor. For example, a district attorney may only be removed by the Governor. Would you consider allowing other district attorneys, the state district attorneys, to decide whether or not an individual district attorney should be removed for misconduct?

SENATOR MAY: Through you,

Mr. President, the -- the question is about elections commissioners right here. I -- I don't want to get into other offices.

SENATOR RHOADS: Will the sponsor continue to yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR MAY: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR RHOADS: The issue is with respect to a process. You're creating a precedent through this bill. Would you see that precedent extending to things like removal of a district attorney, removal of any elected official, removal of a member of the Senate?

SENATOR MAY: Through you, Mr. President, elections commissioners are not elected officials in the way that a district attorney is. So this is really a -- a different process altogether we're talking about.

SENATOR RHOADS: On the -- on the bill.

THE PRESIDENT: Senator Rhoads on the bill.

SENATOR RHOADS: What we have here

is a process, as Senator Martins has alluded to, that has not been well thought out in the sense that we're not sure exactly what the criteria are, we're not sure what the definitions are with respect to what constitutes misconduct or malfeasance. And we have a process that -- where we're making elections commissioners unique, as opposed to how the process is for other either appointed or elected officials to be removed.

I see no difference between the removal of an elections commissioner and the removal of a district attorney. If the idea behind this legislation is that we're going to give others a voice so that the power is not vested in one individual -- regardless of what party that individual is from -- and including more people in that process, then that should be carried out across a number of other areas, not just this one.

And I don't know why we're making the position of an elections commissioner and drawing a distinction for that when the same process can be applied to many others if it's such a good idea.

That's why I'll be voting no and

encourage my -- my colleagues to do so as well.

THE PRESIDENT: Are there any other Senators wishing to be heard?

Seeing and hearing none, debate is closed. The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Helming to explain her vote.

SENATOR HELMING: Thank you, Mr. President.

So I rise to explain my reason for a no vote on the bill before us, which is a proposal to amend Election Law in relation to the removal of an elections commissioner.

Mr. President, as we clearly heard the sponsor state, we have a process in place, a process in place that works. We are given a specific example of how this process has worked.

The second reason why I'll be voting no on this bill is that it's -- it's just a poorly written bill. The bill proposes the

standard for removal would include competence -- incompetence, misconduct or other good cause, but these terms are not defined. I don't see them anywhere in the bill language. In fact, when the bill's sponsor was asked about definitions, the response was "It's something you know when you see it."

I would offer that as a legislative body, we can do better than that and we need to start doing better than that. We need to provide objective definitions. We need to make sure that our legislation is clear and concise.

So, Mr. President, those are just two of the reasons why I will be voting no on this legislation.

THE PRESIDENT: Senator Helming recorded in the negative.

Senator Walczyk.

SENATOR WALCZYK: Thank you, Mr. President, to quickly explain my vote.

I think many of the points were made in -- in debate. But as Senator Helming points out, and I think most of this body has probably realized, you should probably be pretty deliberate when you're talking about something as

serious as removing a commissioner of a local board of elections. That's not a process that you want to say, gosh, that one time that we had an elections commissioner that didn't work out, I really wish it was a lot faster, I really wish that we had an administrative process that just could have quickly removed that elections commissioner.

And look, in that instance, sure, looking back, yeah, you want to remove someone that's doing wrong, preventing us from having free and fair elections, preventing from people -- people from getting the franchise that we all hold so dear and brings us back here or here for the first time.

But you set a very dangerous precedent when you say, I want this process to be quick and administrative and held on high in Albany -- I don't want to have to worry about jumping through too many hoops or having too many hearings or having a Governor who's duty elected be involved in it whatsoever, let's just get that Republican commissioner out of there real quick.

Mr. President, I vote no.

THE PRESIDENT: Senator Walczyk

recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar 6, those Senators voting in the negative are Senators Borrello, Canzoneri-Fitzpatrick, Gallivan, Helming, Lanza, Mattera, Murray, O'Mara, Ortt, Rhoads, Rolison, Stec, Tedisco, Walczyk, Weber and Weik. Also Senator Martins.

Ayes, 44. Nays, 17.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 8, Senate Print 609, by Senator Hoylman-Sigal, an act to amend the Election Law.

THE PRESIDENT: Senator Walczyk.

SENATOR WALCZYK: Mr. President, good afternoon. I wonder if the sponsor could yield for some questions.

THE PRESIDENT: Does the sponsor yield?

(No response.)

THE PRESIDENT: Does the --

(Inaudible; laughter.)

SENATOR HOYLMAN-SIGAL: I was taking a picture of my friend up in the gallery.

(Laughter.)

THE PRESIDENT: Wait a minute. Is that a yes? Does the sponsor yield?

SENATOR HOYLMAN-SIGAL: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR HOYLMAN-SIGAL: Thank you.

SENATOR WALCZYK: Disregard, Mr. President. I don't have questions on this bill, thanks very much. But a good afternoon to you, sir.

(Laughter.)

SENATOR HOYLMAN-SIGAL: Micah Lasher, who's the director of policy for Governor Hochul, is in the gallery. And his children and wife.

THE PRESIDENT: Are there any other Senators wishing to be heard?

Senator Rhoads.

SENATOR RHOADS: Thank you, Mr. President. Will the sponsor yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR HOYLMAN-SIGAL: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR RHOADS: No pictures?

(Laughter.)

SENATOR RHOADS: The issue that I raised with Senator Krueger earlier with respect to this bill passing and creating the unintended result, potentially, of having individuals or county boards of election having to pay $600 or $700, depending on a 300 or 350 rate -- has there been any accounting in -- in this particular bill now that -- now that 136 has passed? Has there been any accounting in your legislation to adjust for the fact that there may very well be increased rates and a split of time?

SENATOR HOYLMAN-SIGAL: Yes, thank you for raising that. Through you, Mr. President.

In fact our legislation, if you had a chance to read it, says the Board of Elections may employ election inspectors or poll workers to

work split shifts with adjusted compensation. So in fact you are able to divide the compensation accordingly.

SENATOR RHOADS: Thank you, sir.

Thank you, Mr. President.

THE PRESIDENT: Are there any other members -- or Senators wishing to be heard? Seeing and hearing none, debate is closed.

The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Announce the results.

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 10, Senate Print 611, by Senator Mayer, an act to amend the Election Law.

SENATOR WALCZYK: Mr. President, if the sponsor -- and good afternoon to you again.

THE PRESIDENT: Senator Walczyk.

SENATOR WALCZYK: Would the sponsor

yield?

SENATOR MAYER: Yes, I'm happy to yield.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Thank you.

Through you, Mr. President, what's the purpose of this bill?

SENATOR MAYER: Well, the purpose of the bill is to address really a -- a lack of confidence in all of our boards of elections and the need to restore confidence for all voters that those that are commissioners of boards of elections are full-time employees dedicated to the work that must be done, and that voters know that they have the full attention of the commissioners.

So that is all the bill does, and that is what it requires.

SENATOR WALCZYK: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: When you say elections commissioners, are you talking about state elections commissioners of the State Board of Elections or are you talking about local county elections commissioners?

SENATOR MAYER: Commissioners in county boards of elections and in the New York City Board of Election.

SENATOR WALCZYK: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Did the New York State Association of Counties support or request this legislation?

SENATOR MAYER: Through you, Mr. President, we have not seen either support or opposition from them.

SENATOR WALCZYK: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor

yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: How many of New York's great 62 counties have requested this legislation by passing resolutions requesting the Legislature take action on it?

SENATOR MAYER: Through you, Mr. President, I'm not aware of that.

I am aware, though, of several who testified at the bipartisan hearings of the New York State Senate Elections Committee and the report that was issued in November of 2021. For example, Tim Perfetti, vice chair of the Democratic Rural Conference, testified in support of this, as well as others.

So I'm confident that if we asked, on a bipartisan basis, we would find a great deal of support, but this bill is not dependent on that.

SENATOR WALCZYK: Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: I'm not familiar with Mr. Perfetti. Is he a commissioner of the board of elections in a particular county in New York State?

SENATOR MAYER: Through you, Mr. President, I don't believe he's a commissioner. But he testified at public hearings held throughout the state for both rural and urban and suburban counties about the operations of boards of elections, in which this was a recommendation of that bipartisan group.

SENATOR WALCZYK: Thank you. And I'm glad the sponsor brought up rural counties.

Through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Have you ever heard of Hamilton County, named after Alexander Hamilton?

SENATOR MAYER: Through you,

Mr. President, yes, of course I have heard of Hamilton County.

SENATOR WALCZYK: And through you, Mr. President, if the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Do you know how many residents there are in Hamilton County?

SENATOR MAYER: Through you, Mr. President, I do not know, but I know it is small.

SENATOR WALCZYK: I'd be happy to inform the sponsor, Mr. President, it's a little over 5,000 residents -- 5,119 residents in Hamilton County.

Through you, Mr. President, would the sponsor continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Why would

Hamilton County require two full-time commissioners on the board of elections?

SENATOR MAYER: Through you, Mr. President. The premise of this bill is that every voter in every county, whether they're in Hamilton County or in Bronx County, is entitled to have full confidence that the two commissioners, at least, that are employees of the county board of elections take this job seriously enough, and are paid accordingly, to work full-time and devote all their energies.

We've seen a series of mistakes and errors by our boards of elections. This is part of an effort to instill confidence for every voter, regardless of whether they live in a rural county, an urban county, or a suburban county.

SENATOR WALCZYK: Through you, Mr. President, would the sponsor continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: Thank you.

And obviously coming fresh off of a

debate where we talked about how to remove a commissioner of board of elections for their incompetence, misconduct or good cause, I could be a little bit sensitive representing a large rural area that just the nature that a commissioner might be working part-time, is that that they're automatically incompetent.

I wondered, who's going to -- who's going to pay for this?

SENATOR MAYER: Through you, Mr. President. As Senator Krueger mentioned in her earlier remarks about a number of these bills, one, we are at the beginning of the budget process. And we look forward to ensuring that as many of the costs associated with these improvements and ways to improve confidence, that there are funds for them.

But alternatively, there are boards who could make choices about reallocating their own resources. This bill does not proscribe either approach.

SENATOR WALCZYK: Through you, Mr. President, would the sponsor continue to yield.

THE PRESIDENT: Does the sponsor

yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR WALCZYK: So would it be the -- the counties that are upgrading their part-time board of elections commissioners -- Hamilton County, for example, 5,000 residents, only, in my view, in need of part-time elections commissioners, and probably not in need of much staff -- is it on the county to then pay two full-time salaries in Hamilton County?

SENATOR MAYER: Through you, Mr. President, yes. But that isn't to say that we won't continue to fight for additional funds.

SENATOR WALCZYK: Mr. President, on the bill.

THE PRESIDENT: Mr. Walczyk on the bill.

SENATOR WALCZYK: I appreciate -- and thank you for -- for answering my questions. I appreciate it. I think -- and this will come up from time to time with legislation on -- on this floor that has a fiscal impact. We call them unfunded mandates in upstate New York, and our counties are more than frustrated with them,

especially when they make as little sense as this bill does for particular counties in the State of New York.

This piece of legislation hasn't been requested by the counties, hasn't been supported by any of our 62 counties, hasn't been interfaced with the New York State Association of Counties. And yet a bill that will make no sense and really have no bearing on the way that they ensure -- in Hamilton County there's 5,000 residents that you have to -- to work for when you're the board of elections commissioner. And there's 4600, that's -- which is a high propensity -- registered voters in Hamilton County. It's not going to take a team of full-time staff and two commissioners that are just there at their computer ready to answer every call and question and every registration that's coming in the door.

We have to make responsible policy in this body that fits everyone. And in this case, rural counties, this doesn't make sense for some of them.

So the one-size-fits-all doesn't work for me because it doesn't work for the seven

counties that I represent. And that's why I will be voting no and encourage my colleagues to do the same. Thank you, Mr. President.

THE PRESIDENT: Senator Stec.

SENATOR STEC: Thank you. If the sponsor would yield, please.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR STEC: Good afternoon, Senator.

So I just wanted to make sure I -- I heard you correctly. A minute ago a colleague asked a question and your response to it was that the purpose of this bill was that -- for, quote, every voter in every county is entitled to full-time election commissioners. Am I fairly accurate with that? Is that your sentiment?

SENATOR MAYER: It's not my sentiment. The bill requires that every -- that two commissioners in every county and the commissioners in New York City be full-time commissioners, yes.

SENATOR STEC: If the sponsor would

continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR STEC: Did you say a moment ago that every voter in every county is entitled to full-time election commissioners?

SENATOR MAYER: Yes, I said that.

SENATOR STEC: Thank you. If the sponsor would continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR STEC: So did you also say that the burden of paying for this mandate in this legislation would fall to the county taxpayer and not the state?

SENATOR MAYER: Through you, Mr. President, as I said previously, the burden falls on the county. But we as an -- we have an obligation as legislators to fight to offset the costs of any county for any of these things, and we will fight in the budget to get that done.

SENATOR STEC: Will the sponsor continue to yield?

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR STEC: Does this legislation provide any funding for this mandate?

SENATOR MAYER: Through you, Mr. President, no.

SENATOR STEC: If the sponsor will continue to yield.

THE PRESIDENT: Does the sponsor yield?

SENATOR MAYER: Yes.

THE PRESIDENT: The sponsor yields.

SENATOR STEC: All right, thank you. I'm sure that you're -- you've heard of and you're familiar with and have likely been to Essex County. We're all going to be focused on the World University Games that are about to start there in a few days, and I'm personally excited about it.

But do you happen to know approximately the population of Essex County?

SENATOR MAYER: Through you, Mr. President, again, I don't know the population. I have been there, and I know the population is a low number. And those voters are entitled to the same protections as the voters in my county of a million people.

SENATOR STEC: On the bill.

THE PRESIDENT: Senator Stec on the bill.

SENATOR STEC: Thank you very much. Thank you, Senator Mayer.

The population of Essex County is a little over 37,000 residents. So by comparison to Hamilton county, it is a giant. However, Essex County has had a long history of having part-time elections commissioners. They've done a great job.

As a matter of fact, some of our political operatives that like to, on the other -- on your side of the aisle that like to venue shop would go after little counties like Essex County to challenge election laws that they wanted to go after, including absentee ballots and -- and access to them and who -- what is and isn't FOILable.

And yet this little county, with a part-time election commissioner, was able to fend off an attack by political operatives, as one of my colleagues was talking about yesterday.

So my point here being is that it's not necessary for every county to have a full-time election commissioner. Frankly, it should be up to them to make that decision on their own, especially if we are going to require that they pay for it.

I am also astounded that just now we're talking about every voter in every county is entitled to a full-time election commissioner, but yesterday this body voted to deny every voter in every county to have equal access to Supreme Court proceedings. So I hope you all remember yesterday's discussion and vote accordingly.

I'll be voting in the negative.

THE PRESIDENT: Senator Krueger.

SENATOR KRUEGER: Thank you, Mr. President.

If Senator Walczyk would please answer a question for me.

THE PRESIDENT: Senator Walczyk, will you yield for a question?

SENATOR WALCZYK: I'll yield.

SENATOR KRUEGER: Thank you.

You referenced Hamilton County having 5,000 people and that -- being concerned about a full-time board of -- board of elections commissioners.

Can you tell me how many school districts are in Hamilton County?

SENATOR WALCZYK: One.

SENATOR KRUEGER: Through you, Mr. President. It's interesting, it's reported as 22 different districts, with only 500 students. So perhaps my information is wrong.

But I think that my colleague's -- and thank you for your answer. That's the only question. My colleague's point about everyone in every county deserving the same right to equal voting -- the reality is in our state, if you look at all kinds of different critical services that we provide, and we actually often expect counties to share in the cost of, whether it's education or voting, the -- the distribution of population to staff is often radically different.

So we have one school district for New York City, and I thought the Google report

was 22 districts for Hamilton County; perhaps it's just one. But obviously there's a difference in population served in the two counties, with the recognition of still needing the correct people running the services for all the people in each of these areas, even though they are enormously different in size.

Thank you, Mr. President. I support this bill and will be voting for it.

THE PRESIDENT: Are there any other Senators wishing to be heard?

Seeing and hearing none, debate is closed. The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Mayer.

SENATOR MAYER: Thank you, Mr. President, to explain my vote.

This -- this bill is in the context of serious failures of our boards of elections throughout the state, without pointing fingers at anyone or any party.

The report and findings of the Senate Elections Committee after their hearings, which were held on a bipartisan basis throughout the state, found that -- and I urge you to read page 5 -- "in the last 18 months alone" -- and this was written in November of 2021, "New Yorkers have witnessed numerous confidence-shaking incidents where our elections have fallen short of the standards we must expect." And it goes through them.

And they took testimony around the state, and from anyone who wished to be heard. And a recommendation of this bipartisan group was to have full-time commissioners in every county.

This bill occurs in the context of the work of this Majority to improve election access and confidence in the workings of our boards of elections. We are not punishing anyone; in fact, we are probably increasing some people's salaries, which they might be grateful for at the end of the day. We will fight for the money.

But this is an effort to restore confidence and belief that our system of elections are fair and just and carried out

according to the law.

So I'm proud of the work of this conference, and I'm very appreciative that this bill is again on the calendar. I vote aye.

THE PRESIDENT: Senator Mayer to be recorded in the affirmative.

Senator Borrello.

SENATOR BORRELLO: Thank you, Mr. President, to explain my vote.

I've heard a couple of times today that we'll try to find the money, we'll fight for the money, and I appreciate that. But again, coming from a decade in county government, I can tell you that that doesn't often happen. In Chautauqua County, where I was county executive, 85 cents of every dollar that was collected in property taxes went to unfunded mandates.

In Erie County, my friends to the north, every dollar that's collected in property taxes goes just to pay the local share of Medicaid.

So we can look to find the money, but apparently we don't find it very often here in Albany as we really burden our local governments. And things like this are just one

more burden. So I've got to ask, if you think it's a good idea, let's find the money before we put the bill up.

And now, thank you, Madam President.

ACTING PRESIDENT PERSAUD: Senator Borrello to be recorded in the negative.

Senator Canzoneri-Fitzpatrick.

SENATOR CANZONERI-FITZPATRICK: Thank you, Madam President.

I'm a new Senator, and I understand that I have a lot to learn. However, listening to the bills that were proposed yesterday and today, I think we have to be consistent in the message that we are -- are conveying. Because in one sense we're trying to secure elections and enfranchise our voters to make sure that their vote counts, that it is counted properly, that it is secure, and that the people supervising this system have checks and balances.

Yet yesterday we talked about drop-off portable boxes, and now we're -- and removed the right, I think, limiting the jurisdiction of our Supreme Court to hear cases to make it convenient for the voters to have their complaints heard. And now today we're

doing things that are contrary to that.

And again, as it's been stated our -- our smaller counties have to be considered in the fact that we are burdening them financially and not providing the funding to implement the things that we are dictating from this body.

We need to be better at having standards that are reviewable, that are subjective -- that are not subjective, excuse me, so that we can ensure that we are giving everybody confidence, giving our voters, our residents confidence in our election systems. And I -- I don't think that we've done that well today or yesterday.

And for that reason, I voted no. Thank you.

ACTING PRESIDENT PERSAUD: Senator Canzoneri-Fitzpatrick to be recorded in the negative.

Announce the results.

THE SECRETARY: In relation to Calendar 10, those Senators voting in the negative are Senators Borrello, Canzoneri-Fitzpatrick, Gallivan, Helming,

Martins, Mattera, Murray, Oberacker, O'Mara, Ortt, Rhoads, Rolison, Scarcella-Spanton, Stec, Tedisco, Walczyk, Weber and Weik.

Ayes, 43. Nays, 18.

ACTING PRESIDENT PERSAUD: The bill is passed.

THE SECRETARY: Calendar Number 16, Senate Print 619, by Senator Krueger, an act to amend the Election Law.

ACTING PRESIDENT PERSAUD: Senator Lanza.

SENATOR LANZA: Madam President, good afternoon. Would the sponsor yield for some questions?

ACTING PRESIDENT PERSAUD: Senator Krueger, would you yield for a question?

SENATOR KRUEGER: Yes, indeed I will.

ACTING PRESIDENT PERSAUD: The sponsor yields.

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

Could the sponsor tell us why she believes this bill is necessary?

SENATOR KRUEGER: Thank you very much. Thank you for the question.

I just want to reference, we passed it last year on a day I was out sick, so I want to thank Senator Myrie for playing my role in last year's discussion. So I look forward to this discussion today.

So I have been a voter in New York City since 1983, when I moved to the City of New York. And I have now observed for that many decades a board of election that doesn't seem to be able to get us through one election cycle successfully without some publicized set of scandals in our local newspapers and sometimes our national newspapers.

And to be honest, it is embarrassing to me, as a resident of the City of New York and a representative in Albany to cover the City of New York, that we are the largest city in the state and yet we don't seem to have an operation called the board of election that seems to be able to handle elections properly.

And I won't spend a lot of time, because we don't have much with the Governor calling us into a State of the State, to read

through endless newspaper reports of the problems of the New York City Board of Election, other than to say anyone can Google them or ask me to give them the reports later, or they might get the test -- the transcripts from the series of public hearings that our Election Committee held in New York City. I think there were three or four in the City of New York -- okay, we're not sure about the number. But you can get the transcripts and you can hear from people who testified about the problems.

In a recent New York Times exposé about it, it had a series of people who work for the Board of Elections talking to the New York Times reporters about the problems that they kept seeing at the board and the embarrassing situations for them that we weren't prepared.

So I think we're way past the time where there's much of a dispute that we need to professionalize the New York City Board of Election in a way that we can assure all New Yorkers that we can operate elections successfully and effectively and not prevent people who are entitled to vote from voting in the great City of New York.

SENATOR LANZA: Madam President, would the sponsor yield?

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KRUEGER: Absolutely.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR LANZA: Through you, Madam President.

Let's stipulate with respect to the amount of scandal that we've unfortunately witnessed at the Board of Elections.

But through you, Madam President, why does the sponsor believe that reducing the number of commissioners from 10 to two would somehow address that -- that -- those scandals?

SENATOR KRUEGER: Because technically the commissioners are the ones who are responsible for the ineffectiveness of the City Board of Election.

And I actually think having so many commissioners has added to the problems. There's not a smooth chain of command, so to speak, in either the professionalization of the staffing, which is desperately needed, nor is there a model

for commissioners to reasonably and easily come to agreement on major decisions that should be their responsibility. When there are 10 of them, there is too much room for dispute and infighting. And so often, if you've ever gone to or observed a commission or a meeting at the Board of Election, they table critical issues, they don't get to them on time, or they blame each other afterwards for whose fault it was.

It's just too many people to try to run an agency. We don't have 10 commissioners of our fire department or our school system or our health department, and it just isn't working, frankly.

SENATOR LANZA: Madam President, would the sponsor yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR LANZA: Through you, Madam President. Senator Krueger and I could disagree with respect to the difference between dispute and disagreement and accountability and scandal.

I just don't see how -- in fact, I would disagree with the -- the premise that going from 10 commissioners to two would somehow bring us a -- more integrity.

But Madam President, through you, a moment ago in the last debate my good friend and colleague Senator Mayer said that every county, big and small, should have representation on the board. Through you, Madam President, would Senator Krueger agree with that?

SENATOR KRUEGER: I do. Although in the City of New York, unlike the rest of the state, five counties now joined together back in the 1800s and decided to be one municipality. Again, we don't have five fire departments, we don't have five school systems, we don't have five police forces. We don't have five mayors. We have one City of New York. We have one Board of Election.

And so I think it is more than appropriate that we have a system that recognizes it's one Board of Election, one set of state, federal, and city election laws that apply in all five counties. And that the rational approach to moving forward is to go to the model that each of

the other counties in our state have, which is two commissioners.

SENATOR LANZA: Will the sponsor yield, Madam President.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KRUEGER: I do.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR LANZA: Through you, Madam President.

In fact, Senator Walczyk pointed out that Hamilton County has a population of a little more than 5,000 residents. As my colleague and friend across the aisle is aware, the smallest county in New York City, Staten Island, my hometown, has more than 500,000 residents. And yet if this bill becomes law, Senator, Hamilton County will have two commissioners and Staten Island -- Richmond County -- would conceivably have none.

Madam President, through you, why does my colleague believe that that is fair and balanced?

SENATOR KRUEGER: Through you,

Madam President. Again, we're one city, the City of New York, with one Board of Election, one set of rules, regulations and laws that should apply equally in all five boroughs.

And of course when you're talking about the delivery of services through the Board of Election, it's not through two commissioners versus 10 commissioners, it's the total number of staff there are to operate elections. And without counting, I'm pretty sure New York City's Board of Election has more staff than the Hamilton County Board of Election.

SENATOR LANZA: Madam President, would the sponsor yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KRUEGER: Yes, I will.

ACTING PRESIDENT PERSAUD: The Senator yields.

SENATOR LANZA: Through you, Madam President. Does the sponsor believe, as I listened to the fact that there's one mayor and one police commissioner and et cetera -- does the sponsor believe that there should only -- there should not be five borough presidents in the City

of New York?

SENATOR KRUEGER: Through you, Madam President, it's an interesting question. And I think it's a reasonable debate. It's not one for us to have on the floor of the Senate, because of course municipal government and how it decides to create its local officials is done through municipal charter, not through the State of New York or our Constitution.

There have been debates like that in the City of New York. I am old enough to remember when we had a different system with a weaker City Council and stronger borough presidents, and then we changed that through charter vote in the City of New York.

And if the people of the City of New York decide that they don't think they should have borough presidents, I don't think that will be a debate on the floor of this house, but each of us representing a part of New York City might have our own opinion at that time.

SENATOR LANZA: Would the sponsor yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KRUEGER: Of course.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR LANZA: Through you, Madam President. Am I correct in my observation that if this were to become law, that at least three counties, three boroughs -- and potentially four boroughs -- within New York City would not have representation on the board or would not have a commissioner from those respective boroughs?

SENATOR KRUEGER: That is correct.

Again, we're one city. Depending on how you look at the count on even actual elected officials, which commissioners of the Board of Election are not, some of us wonder whether Brooklyn actually controls all of New York City at this point. But that's the decision of the voters of New York City.

But commissioners of the Board of Election are not that kind of elected official.

SENATOR LANZA: Would the sponsor yield.

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KRUEGER: Yes. Of course.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR LANZA: Through you, Madam President. The problem with this legislation, though, my friend, is that this would not be a matter of election, this would be made by the mayor and I believe the public advocate and I think someone else. I think three, the appointing body as defined in this legislation. But nevertheless.

So currently there are 10 commissioners. This bill would bring it to two. Again, we're talking about New York City, the most populous -- populated city in -- in America. Five counties. If this becomes law, potentially only one of those counties would have representation.

But even more than that -- Madam President, through you -- am I correct in my observation that this would potentially also remove the deputy director position?

SENATOR KRUEGER: Through you, Madam President, the executive director, which -- who would be nominated through a process of the City Council, representing all the boroughs, and

then chosen, could then choose a deputy director.

Again, it is so rare in New York City that people who are hired into professional, proficient positions in government are given a litmus test of what address they live at as far as the borough they live in. I'm just not sure how that is relevant. Because of course the Board of Election must implement laws that treat all voters of New York City, whichever borough they live in, equally under the same laws and regulations.

SENATOR LANZA: Will the sponsor yield?

ACTING PRESIDENT PERSAUD: Does the sponsor yield?

SENATOR KRUEGER: Yes.

ACTING PRESIDENT PERSAUD: The sponsor yields.

SENATOR LANZA: So yes, from that answer, the deputy director position could potentially go away.

And as my colleague knows, that traditionally the construct has been that the executive director and the deputy director have been from each party. And so we're going to

lose, if this becomes law, just one more aspect of bipartisan accountability, and that's something that concerns me dearly.

I -- I also see in this legislation that the executive director can be removed without cause. Through you, Madam President, why is that a good idea?

SENATOR KRUEGER: Through -- through you, Madam President, on the first question, there is a constitutional requirement for employees of the Board of Election to have a balance between the parties. Nothing is said about the boroughs. And that would continue. We didn't change anything about the constitutional distribution by party.

And on the second question, on without cause -- I'm just checking with our counsel's office. (Pause.)

Through you, Madam President. The two commissioners would have to agree to remove the director. So it can be without cause in some broader sense, but not without the approval of both commissioners.

SENATOR LANZA: Madam President, on the bill.

ACTING PRESIDENT PERSAUD: Senator Lanza on the bill.

SENATOR LANZA: Madam President, I want to thank Senator Krueger for the discussion.

Madam President, I -- I think this is a terrible idea. The idea that, well, you've got the five largest counties -- or five of the largest counties in all of New York State, with four of those potentially, at least three of those potentially not having representation on the Board of Elections, is really the opposite of what we ought to be doing in terms of fairness, transparency, accountability.

In an institution as important as this -- I've heard my colleagues repeatedly talk about how important it is to make sure that we have free and fair elections and that we have, to the best extent possible, independent, fair-minded people overseeing those elections. Now, the system has not been perfect. But I think this will make it worse.

We talk about the scandals that you have. At least with 10 commissioners, there are more eyes on the problem, if you will. There is

more give-and-take with respect to the process. Now we're going to consolidate power in two individuals. Two individuals who might not care as much as about the other four counties as would people from those counties. It's common sense. It's why we have members from the Senate representing each and every part -- almost neighborhood -- throughout New York City and New York State. It's a good idea. The more representation in our system, the better.

I would point out that we're just not talking about, with all due respect -- and I have much love for Hamilton County. We're talking about the largest counties in the State of New York. Each county that compromises New York City, each borough, if it were a separate city -- an idea which I favor and long have supported, I might add -- would be the first or second largest city in the State of New York. And yet we're telling these counties: You will no longer have representation on the Board of Elections.

I think that is a terrible -- it's a bad idea. I don't have a crystal ball, but I don't think you need one to know which will be

the first county to lose its representation. I daresay it will be Staten Island. But that's only one. You've got to go at least two more. Is it going to be Queens? Will it be Brooklyn? Will it be the Bronx? You might need to go three more, with only one standing. I'll leave it to you to figure which, but that will not be in the best interests of the people of the City of New York.

You want to talk about minority interests in terms of political interests? We have a very diverse city in New York City. It's what makes it one of the greatest cities on earth. And we need to hear from all corners of that city. And what this legislation says is that we don't care that Staten Island, that Brooklyn, that Queens, Bronx, et cetera, should have representation on the Board of Elections.

And that's wrong, and it's why I will be voting in the negative.

ACTING PRESIDENT PERSAUD: Thank you, Senator Lanza.

Are there any other Senators wishing to be heard?

Seeing and hearing none, debate is

closed. The Secretary will ring the bell.

Read the last section.

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

ACTING PRESIDENT PERSAUD: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT PERSAUD: Senator Stec to explain his vote.

SENATOR STEC: Thank you very much.

I've enjoyed listening to this debate. I think we're pulling together a lot of important issues in the theme of the last couple of days.

For -- in part of explaining my vote, for the benefit of the body and the purpose of correcting the record, I think it is important to note that while Hamilton County, Ohio, has 22 school districts, Hamilton County, New York, only has seven.

A fun fact on Hamilton County, which we're giving a lot of well-deserved love to today -- and if it wasn't in the 45th Senate District, it would be one of my favorite counties. But outside of the 45th Senate

District, it is my favorite county. Five thousand people, not a single traffic light. Not a single one. So I encourage everyone to visit Hamilton County. It is gorgeous. And I think in getting there, you will learn a lot about infrastructure and rural communities. I think there would be a lot of benefit for everyone to take a trip, bring your wallet, bring your significant others, and spend some time in Hamilton County.

With that said, though, we are disenfranchising, again, people in the City of New York this time in having access to an election commissioner in every county. We want election commissioners to be full-paid in every county, but we don't want every county necessarily to have an election commissioner. Those two bills seem to go against each other. And certainly they're not in keeping with, you know, all Supreme Courts being equal in all 62 counties.

So I think we've got some soul-searching here to do as far as trying to find consistency in our legislation. I will be voting no.

ACTING PRESIDENT PERSAUD: Senator Stec to be recorded in the negative.

Thanks for the love for New York City.

(Laughter.)

ACTING PRESIDENT PERSAUD: Announce the results.

THE SECRETARY: In relation to Calendar Number 16, those Senators voting in the negative are Senators Ashby, Borrello, Canzoneri-Fitzpatrick, Gallivan, Helming, Lanza, Martins, Mattera, Murray, Oberacker, O'Mara, Ortt, Rhoads, Rolison, Scarcella-Spanton, Stec, Tedisco, Walczyk, Weber and Weik.

Ayes, 41. Nays, 20.

ACTING PRESIDENT PERSAUD: The bill is passed.

Senator Gianaris.

SENATOR GIANARIS: Madam President, in deference to the Governor's State of the State speech and our desire to get over there on time, we're going to lay aside for the day Calendar Numbers 17 and 18, which we will take up when we return next week.

ACTING PRESIDENT PERSAUD: The

calendar will be laid aside for the day.

SENATOR GIANARIS: Is there any further business at the desk?

ACTING PRESIDENT PERSAUD: There is no further business at the desk.

SENATOR GIANARIS: Move to adjourn until Tuesday, January 17th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT PERSAUD: On motion, the Senate stands adjourned until Tuesday, January 17th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 12:43 p.m., the Senate adjourned.)