NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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February 14, 2024

11:11 a.m.

REGULAR SESSION

SENATOR JAMAAL T. BAILEY, Acting President

ALEJANDRA N. PAULINO, ESQ., Secretary

P R O C E E D I N G S

ACTING PRESIDENT BAILEY: 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.)

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

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

ACTING PRESIDENT BAILEY: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, February 13, 2024, the Senate met pursuant to adjournment. The Journal of Monday, February 12, 2024, was read and approved. On motion, the Senate adjourned.

ACTING PRESIDENT BAILEY: 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 Serrano.

SENATOR SERRANO: Thank you, Mr. President.

Is there a report of the Judiciary Committee at the desk?

ACTING PRESIDENT BAILEY: There is a report of the Judiciary Committee at the desk.

SENATOR SERRANO: Okay, can we please take that up.

ACTING PRESIDENT BAILEY: The Secretary will read.

THE SECRETARY: Senator Hoylman-Sigal, from the Committee on Judiciary, reports the following nomination:

As Interim Supreme Court Justice of the 8th Judicial District, John J. DelMonte.

ACTING PRESIDENT BAILEY: Senator Serrano.

SENATOR SERRANO: I move to accept the report of the Judiciary Committee.

ACTING PRESIDENT BAILEY: All those

in favor of accepting the report of the Judiciary Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BAILEY: Opposed, nay.

(No response.)

ACTING PRESIDENT BAILEY: The report of the Judiciary Committee is accepted.

Senator Serrano.

SENATOR SERRANO: Please take up the report of the Judiciary Committee and call on Senator Hoylman-Sigal.

ACTING PRESIDENT BAILEY: Senator Hoylman-Sigal on the nomination.

SENATOR HOYLMAN-SIGAL: Thank you, Mr. President.

I rise to move the nomination of John J. DelMonte for Interim Justice of the Supreme Court in the 8th Judicial District.

Yesterday, Mr. President, the Judiciary Committee considered his nomination and unanimously recommended his confirmation.

Mr. DelMonte is a graduate of Niagara University and South Texas College of Law and was admitted to the New York State Bar in

1980.

As he shared during his appearance before the Judiciary Committee yesterday, Mr. DelMonte has 40 years of experience practicing in New York's Supreme Court, handling all areas of law, which was noted by our committee members, including product liability, real property law and litigation, corporate, contract and commercial litigation, municipal and education law as well as divorce and matrimonial law.

Mr. DelMonte has prized himself on being a person his friends, family and colleagues lean on for complex legal issues. I guess you don't get paid for that.

For the last four years he has committed himself to providing legal aid in Buffalo, serving as the director of Neighborhood Legal Services since 2020.

I want to thank Governor Hochul for nominating such a distinguished individual to serve on our judiciary, and Majority Leader Andrea Stewart-Cousins for prioritizing this confirmation.

I want to thank my colleagues from

Buffalo, in particular Senator Sean Ryan, for helping shepherd this nomination through the process, along with Senator Tim Kennedy.

And I'm proud to move Mr. DelMonte's nomination to the floor and encourage our colleagues to vote aye.

I ask that you please recognize any Senator who wishes to speak on the nomination.

Thank you.

ACTING PRESIDENT BAILEY: Thank you, Senator Hoylman-Sigal.

Senator Ryan on the nomination.

SENATOR RYAN: I stand in favor of the nomination of John DelMonte for Supreme Court.

I thank Governor Hochul for sending such a worthy candidate to us, and I thank Senator Hoylman for helping bring him through the proceedings yesterday.

John is here today with us. He's joined by his sister Francine, who I will note served in the State Assembly for over a decade. It's good to see both of you here today.

John has a long and distinguished legal career. He's a consummate lawyer. And

from my perspective, that means somebody who practices many areas of law. John's the neighborhood attorney you go to when you're buying a house. You have a Family Court problem, a divorce, a brush with the law, you call John DelMonte, because he's a firm member of our community.

But the broadness of his career also means that he brings trials to verdict, he represents school districts and complex commercial transactions, he brings PLAs together. So this broad experience is really what we want out of judges who come to the bench. So John's experience is going to serve him well.

And I'd be remiss if I didn't note his humble personality and his integrity is really what's going to make him a fantastic judge. He does what he says, and he says what he does. And he comes to this body, you know, humbly seeking his confirmation for his nomination.

So I could not be more pleased and stand today in favor of this nomination.

Thank you.

ACTING PRESIDENT BAILEY: Thank

you, Senator Ryan.

The question is on the nomination.

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT BAILEY: The nominee is confirmed.

Senator Serrano.

SENATOR SERRANO: Thank you, Mr. President.

Can we return to motions and resolutions.

We can take up -- let's please take up previously adopted Resolutions 1585 and 1587, by Senator Tedisco, read both resolutions title only, and recognize Senator Tedisco.

ACTING PRESIDENT BAILEY: Senator Serrano, prior to Senator Tedisco's resolutions, if Mr. DelMonte could just please rise and be recognized on his nomination.

(Standing ovation.)

ACTING PRESIDENT BAILEY: The Secretary will read the resolutions.

SENATOR TEDISCO: Mr. President and my colleagues --

ACTING PRESIDENT BAILEY: Senator Tedisco, the Secretary needs to read the titles of the resolutions.

THE SECRETARY: Resolution 1585, by Senator Tedisco, congratulating the Burnt Hills-Ballston Lake Girls Varsity Volleyball Team upon the occasion of capturing the 2023 New York State Class A Championship.

Senate Resolution 1587, by Senator Tedisco, congratulating the Burnt Hills-Ballston Lake High School Boys Cross Country Team and Head Coach Chip Button upon the occasion of capturing the 2023 New York State Class B Cross Country Championship.

ACTING PRESIDENT BAILEY: Senator Tedisco on the championship resolutions.

SENATOR TEDISCO: Thank you, Mr. President.

Mr. President and my colleagues, let me wish you all a very happy Valentine's Day and a good Ash Wednesday to you and everyone who is in earshot.

First of all, I want to say we have

some outstanding and great schools and school districts in the 44th Senatorial District, primarily because we have some outstanding students and pupils and great leadership with the administration and staff and great community support.

Today I'm proud to welcome not one but two state champions to the New York Senate chamber, both from Burnt Hills-Ballston Lake High School, an outstanding school in the 44th Senate District, where I like to say all good things emanate from.

Because they won the coin toss, I will begin with the Varsity Girls Volleyball Team and Coach Gary Bynon, whose team captured the 2023 New York State Class A Championship with an impressive 25-13, 25-19, 23-25 and 25-22 four-set victory over Williamsville South High School on Sunday, November 19, 2023, at Cool Insuring Arena in Glens Falls.

This was the program's ninth state title in school history, preceded by 36 consecutive Suburban Council titles and 21 consecutive Section 2 championships.

These outstanding athletes have

clearly demonstrated their acumen on the volleyball court, but their success carries over into the classroom as well, with a collective 96.7 percent grade point average.

We're also joined today by the Burnt Hills-Ballston Lake Boys Cross Country Team and Head Coach Chip Button, who has been a yearly guest dating back to my time across the hall in the New York State Assembly. And I wouldn't recommend it of the coach, but Coach Button could probably drive here blindfolded at this point.

The Burnt Hills-Ballston Lake Boys Cross Country Team once again captured the New York State Class B Cross Country Championship on Saturday, November 11, 2023, at Vernon Verona Sherrill High School in Verona.

As I have chronicled, these are not uncharted waters for the Burnt Hills-Ballston Lake Boys Cross Country Team, who have now won seven -- yes, seven straight New York State Class B Cross Country Team Championships. Unprecedented.

Furthermore, this is the program's 24th -- and 10th consecutive -- Section 2 Championship, and their 12th New York State

Championship overall.

Like their fellow classmates, these scholar athletes also excelled in the classroom, garnering a teamwide grade point average of 94.05 percent.

It is both an honor and a privilege to bring two championships from the same school here to the Capitol, and that is due in large part to the school's coaches, the assistant coaches, and the school Y programs at Ballston Lake High School, Burnt Hills-Ballston Lake High School.

I want to commend Athletic Director Joe Scalise, who also joins us in the chamber today. He is the common denominator to the success of these two outstanding programs.

Mr. President, I would ask you to welcome them, congratulate them, and offer all of them the cordialities of this august Senate body, and tell them how much we appreciate the unprecedented achievements they've sought in the past years and last year as New York State champions.

ACTING PRESIDENT BAILEY: Thank you, Senator Tedisco.

To our championship, incredible student athletes and their coaches, we welcome you on behalf of the Senate. We extend to you all of the privileges and courtesies of this house.

Please rise and be recognized.

(Standing ovation.)

ACTING PRESIDENT BAILEY: Those resolutions were adopted on January 9th.

Senator Serrano.

SENATOR SERRANO: At the request of the sponsor, the resolutions are open for cosponsorship.

ACTING PRESIDENT BAILEY: The resolutions are open for cosponsorship. Should you choose not to be a cosponsor, please notify the desk.

Senator Serrano.

SENATOR SERRANO: Thank you.

Please take up the reading of the calendar.

ACTING PRESIDENT BAILEY: The Secretary will read.

THE SECRETARY: Calendar Number 157, Senate Print 1189, by Senator Persaud, an

act to amend the Criminal Procedure Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day after it shall have become a law.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 168, Senate Print 5815A, by Senator Mannion, an act to amend the Public Health Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect June 1, 2025.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce

the results.

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 170, Senate Print Number 5018, by Senator Scarcella-Spanton, an act to amend the Veterans' Services Law.

ACTING PRESIDENT BAILEY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day after it shall have become a law.

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Senator Scarcella-Spanton to explain her vote.

SENATOR SCARCELLA-SPANTON: Thank you, Mr. President.

The purpose of this bill is to require the director of the Division of Veterans Affairs to collaborate with SUNY and CUNY to develop a Veteran Career Assistance Program. We know SUNY and CUNY do so much for

our veterans already, but it's crucial to be able to translate their military skills into civilian life.

I'm a proud CUNY graduate, as is my husband, who is a veteran and graduate of Brooklyn College. I am the College of Staten Island, so we've got both sides of the bridge covered. I'm really proud to sponsor this legislation, and thank you to my colleagues for passing it today.

ACTING PRESIDENT BAILEY: Senator Scarcella-Spanton to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 208, Senate Print 6617, by Senator Addabbo, an act to amend the Correction Law.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: In relation to Calendar 208, those Senators voting in the negative are Senators Borrello, Canzoneri-Fitzpatrick, Griffo, Oberacker, O'Mara, Rhoads, Stec, Weber and Weik.

Ayes, 42. Nays, 9.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 209, Senate Print 6975, by Senator Salazar, an act to amend the Executive Law.

SENATOR LANZA: Lay it aside.

ACTING PRESIDENT BAILEY: Lay it aside.

THE SECRETARY: Calendar Number 294, Senate Print 5974A, by Senator Parker, an act to amend the General Municipal Law.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 295, Senate Print 6310, by Senator Hinchey, an act to amend the Public Service Law.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: In relation to Calendar Number 295, those Senators voting in the negative are Senators Canzoneri-Fitzpatrick and Martins.

Ayes, 49. Nays, 2.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 321, Senate Print 5516A, by Senator Brouk, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 325, Senate Print 1290, by Senator Hinchey, an act to amend the State Law.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT BAILEY: The bill is passed.

THE SECRETARY: Calendar Number 330, Senate Print 3406, by Senator Skoufis, an act to amend the Public Officers Law.

ACTING PRESIDENT BAILEY: Read the last section.

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

ACTING PRESIDENT BAILEY: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT BAILEY: The bill is passed.

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

SENATOR SERRANO: Please go to the reading of the controversial calendar.

ACTING PRESIDENT BAILEY: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 209, Senate Print 6975, by Senator Salazar, an act to amend the Executive Law.

ACTING PRESIDENT BAILEY: Senator Lanza, why do you rise?

SENATOR LANZA: Mr. President, I believe there's an amendment at the desk. I waive the reading of that amendment and ask that you recognize Senator Rolison.

ACTING PRESIDENT BAILEY: Thank you, Senator Lanza.

Upon review of the amendment, in accordance with Rule 6, Section 4B, I rule it nongermane and out of order at this time.

SENATOR LANZA: Accordingly, Mr. President, I appeal the ruling of the chair and ask that Senator Rolison be heard on that appeal.

ACTING PRESIDENT BAILEY: The appeal has been made and recognized, and

Senator Rolison may be heard.

Senator Rolison.

SENATOR ROLISON: Thank you, Mr. President.

I rise to appeal the ruling of the chair because the proposed amendment is germane to the bill at hand because it amends the bill to include corrections officers and civilian staff.

The violence that we have seen in our correctional facilities is unconscionable. It is of the utmost importance that every person within all correctional facilities in the state remain safe from harm. Just as important are the mechanisms and procedures that are in place through which victims can seek recourse when affected by violence and misconduct within their facility.

Notably absent from this bill are the people who work all day, all year, to maintain safety and order within our correctional facilities. These are our corrections officers and civilian staff, who work tirelessly, day and night, to ensure their facilities are maintained and incarcerated individuals are kept safe.

While it's definitely laudable that

we enact a anonymous mechanism for reporting sexual violence perpetrated against incarcerated individuals, this mechanism should be available to all employees working within these facilities. This bill unfortunately offers none of those protections for our corrections officers and civilian staff.

If there are consequences for violence between incarcerated individuals, there should be consequences for violence against employees. It must follow that consequences exist for incarcerated individuals against employees.

We must address the issue of assaults on corrections officers and civilian staff. The current staffing shortages at DOCCS will not alleviate if employees are afforded lesser protection than the incarcerated individuals they're tasked with protecting.

This bill should not be limited to incarcerated individuals. The bill should have encompassed everyone within that facility against violence and sexual violence within a correctional facility with the same level of concern.

Therefore, Mr. President, for those reasons, I strongly urge you to reconsider your ruling.

ACTING PRESIDENT BAILEY: Thank you, Senator Rolison.

I want to remind the house that this vote is on the procedures of the house and the ruling of the chair.

Those in favor of overruling the chair, signify by saying aye.

(Response of "Aye.")

SENATOR LANZA: Show of hands.

ACTING PRESIDENT BAILEY: A show of hands has been requested and so ordered.

Announce the results.

THE SECRETARY: Ayes, 19.

ACTING PRESIDENT BAILEY: The ruling of the chair stands, and the bill-in-chief is before the house.

Senator Rolison.

SENATOR ROLISON: Through you, Mr. President, would the sponsor yield for a question.

ACTING PRESIDENT BAILEY: Will the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT BAILEY: The sponsor yields.

SENATOR ROLISON: What I tried to attempt with the amendment was to include all staff within a facility to have the same reporting mechanism that will be afforded to the incarcerated individuals.

Why would you not want to include corrections officers and civilian staff within our facilities in this bill?

SENATOR SALAZAR: Through you, Mr. President, I really appreciate the spirit of what Senator Rolison is saying, that sexual violence is a serious problem in correctional facilities, both for incarcerated individuals and for staff, and we need to treat it seriously.

However, the reason why this amendment would not be necessary is because in addition to having mechanisms for reporting sexual violence to their employer, a DOCCS employee does have the freedom to report sexual assault anonymously or confidentially to the inspector general. But that option is just not currently accessible to incarcerated individuals.

So we feel that it would be redundant to do that.

SENATOR ROLISON: Mr. President, through you, would the sponsor continue to yield?

ACTING PRESIDENT BAILEY: Will the sponsor yield?

SENATOR SALAZAR: Yes.

ACTING PRESIDENT BAILEY: The sponsor yields.

SENATOR ROLISON: Senator, would you consider amending this bill to include that? I know the amendment failed, but would you consider that?

SENATOR SALAZAR: Through you, Mr. President, I would not, respectfully, simply because I feel that it would be redundant.

And the purpose of this bill is actually to try to make sure that incarcerated individuals have adequate means of reporting sexual violence, which currently is often either ignored entirely or claims of sexual violence made by incarcerated individuals to DOCCS are investigated by their alleged assailants, colleagues or friends in OSI.

And that's why it's so important for us to create this mechanism for incarcerated

individuals specifically.

SENATOR ROLISON: Mr. President, on the bill.

ACTING PRESIDENT BAILEY: Senator Rolison on the bill.

SENATOR ROLISON: Last year many of us in the chamber and in the Assembly met with and then held an event with numerous corrections officers, female corrections officers from throughout the state, who told about their experiences to us and the others that were present, what they experienced within correctional facilities.

And I believe that that was a cry for help. It was also a cry for "You need to listen to us, please take these matters seriously."

And I just believe, respectfully, to my colleagues, that prison violence cannot be tolerated, whether you're an incarcerated individual or you're a member of staff. And these women deserve -- all staff members, but specifically that day, it was very disheartening to hear their stories of things that they have to encounter and endure within the correctional

facilities in this state.

They should be getting the same protections and mechanisms that our incarcerated individuals get.

Thank you, Mr. President.

ACTING PRESIDENT BAILEY: Thank you, Senator Rolison.

Are there any other Senators wishing to be heard?

Seeing and hearing none, debate is closed.

Senator Serrano.

SENATOR SERRANO: Upon consent, we've agreed to restore Calendar 209 to the noncontroversial calendar. So let's take it up that way.

ACTING PRESIDENT BAILEY: On consent, the bill is restored to the noncontroversial calendar.

The Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 180th day after it shall have become a law.

ACTING PRESIDENT BAILEY: Call the

roll.

(The Secretary called the roll.)

ACTING PRESIDENT BAILEY: Announce the results.

THE SECRETARY: In relation to Calendar 209, those Senators voting in the negative are Senators Oberacker and Weik.

Ayes, 52. Nays, 2.

ACTING PRESIDENT BAILEY: The bill is passed.

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

SENATOR SERRANO: Thank you, Mr. President.

Is there any further business at the desk?

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

SENATOR SERRANO: I move to adjourn until Monday, February 26th, at 3:00 p.m., with the intervening days being legislative days.

ACTING PRESIDENT BAILEY: On motion, the Senate stands adjourned until Monday, February 26th, at 3:00 p.m., with the intervening days being legislative.

Happy Valentine's Day.

(Whereupon, at 11:34 a.m., the Senate adjourned.)