

Legislative History for Connecticut Act

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate
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REP. FRANKEL: (121st)

Mr. Speaker, at this time I move for the suspension of our rules for the immediate transmittal of all bills previously acted upon today which require further action by the Senate.

DEPUTY SPEAKER CIBES:

The motion is to suspend the rules for the immediate transmittal of all bills acted upon which require transmittal to the Senate. Is there objection? Is there objection? Hearing none, the rules are suspended for that purpose.

The Clerk please continue with the Call of the Calendar.

CLERK:

Please turn to Page 18, Calendar 744, Substitute for Senate Bill 488, AN ACT CONCERNING THE PARTICIPATION OF UNAFFILIATED VOTERS IN PRIMARY ELECTIONS, as amended by Senate Amendment Schedule "A", Favorable Report of the Committee on Appropriations.

DEPUTY SPEAKER CIBES:

Representative Martin Looney.

REP. LOONEY: (96th)

Thank you, Mr. Speaker. Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of

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the bill in concurrence with the Senate.

DEPUTY SPEAKER CIBES:

The question is on acceptance and passage. Will you remark?

REP. LOONEY: (96th)

Yes, Mr. Speaker. Thank you, Mr. Speaker, the Clerk has in his possession an amendment previously designated Senate Amendment Schedule "A". It is LCO No. 6158. May the Clerk please call that amendment and may I be given leave to summarize it?

DEPUTY SPEAKER CIBES:

The Clerk is in possession of LCO No. 6158 previously designated Senate Amendment Schedule "A". Will the Clerk please call?

CLERK:

LCO 6158, designated Senate Amendment Schedule "A"
offered by Senator Maloney.

DEPUTY SPEAKER CIBES:

The gentleman has requested permission to summarize. Is there objection? Hearing none, Sir, please proceed.

REP. LOONEY: (96th)

Thank you, Mr. Speaker. Mr. Speaker, what this amendment would do is make the bill effective upon passage

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and makes a few non-substantive clarifications in wording.

I move adoption of the amendment, Mr. Speaker.

DEPUTY SPEAKER CIBES:

The question is on adoption of Senate Amendment Schedule "A" to Calendar 744, AN ACT CONCERNING THE PARTICIPATION OF UNAFFILIATED VOTERS IN PRIMARY ELECTIONS. Will you remark further on Senate Amendment Schedule "A"? Will you remark further on Senate Amendment Schedule "A"? If not, all those in favor of adoption please indicate by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER CIBES:

Those opposed please indicate by saying no.

REPRESENTATIVES:

No.

DEPUTY SPEAKER CIBES:

The ayes have it three to one. The amendment is adopted.

Will you remark further?

REP. LOONEY; (96th)

Yes, Mr. Speaker. Mr. Speaker, this bill was occasioned by the recent United States Supreme Court

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decision in Tashjian versus the Republican Party of Connecticut handed down in December of 1986 in which the Supreme Court, the U.S. Supreme Court held that Connecticut law limiting voting in primaries to electors previously enrolled in the party was unconstitutional because it represented a violation of political party's first amendment rights to freedom of association and this bill provides a mechanism for the process of having unaffiliated voters vote in party primaries should a party, by its rules, provide for that eventuality.

The bill establishes the procedures whereby unaffiliated voters can vote in a primary elections. The rules can specify whether unaffiliated voters can vote for candidates, for only some or for all of the offices being contested in a given primary, but no unaffiliated voter can participate in the primary of more than one party on the same day.

Current law, as we indicated recently, declared unconstitutional, limited that participation. Under the bill, election procedures such as the compilation of voter lists, checking voters at polling places and setting up ballot labels and voting machines would be modified to accommodate the participation of unaffiliated voters when one or more parties permit them to vote in a primary.

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Under the bill also, Mr. Speaker, a voter's status as an unaffiliated elector is not changed by his participation in any party's primary. Also, Mr. Speaker, an unaffiliated voter would be treated under this bill, the same deadline would apply for unaffiliated voters to register to vote and participate in a primary that electors now have to enroll in a party and vote in a primary.

The bill permits anyone who registers by 12:00 noon on the last business day before a primary to vote in the primary if permitted by party rule. Currently a voter who relinquishes his voter registration cannot enroll in a different party for six months and the bill would prohibit enrollment in any party or participation in any primary even as an unaffiliated voter for six months after removal from a party list. The bill provides for various procedures in the event that one political party permit unaffiliated voters to vote in a given primary when another does not, when two political parties hold primaries in the same day with similar or varying procedures for allowing unaffiliated voters to participate.

It also maintains the current ratio requirement on voting machines required for each polling place at a primary, one machine for every 1,200 voters, but includes in that

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calculation of voters all those eligible to vote including eligible unaffiliated voters if they're authorized to vote.

The bill also specifies the layout of the separate official ballot label and sample ballot to be used by unaffiliated voters who can vote for some, but not all of the offices in a primary. The bill also prescribes the process for voting when one or more parties hold primaries in which unaffiliated voters can vote. It provides for the setting up of when two or more parties hold such primaries. It provides for the setting up of separate tables of checkers at each polling place for unaffiliated voters, the provision for announcing of the name, the giving of a receipt to the unaffiliated voter who is allowed to vote when two or more parties are holding primaries in which unaffiliated voters can vote or one party is holding a primary in which unaffiliated voters can participate, but for some, but not all contested offices. The form, the receipt, prescribed by the Secretary of the State and provided by the Clerk would indicate the voter's party enrollment or his party preference for the primary if he is unaffiliated.

There are a number of other technical, procedural provisions in the bill to create the mechanism for the participation of unaffiliated voters. Regarding election

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officials, under current law a registrar can appoint up to two assistant registrars as primary officials in towns with at least two voting districts. This bill, instead, requires that he appoint at least one, but not more than two. The bill also requires the registrar to appoint additional checkers when a party permits unaffiliated voters to vote for some, but not all offices in a primary or in two parties of a primary and either permits unaffiliated voters to vote. In either of these situations, separate tables with separate unaffiliated voter lists should be used.

The bill also allows each party, each primary candidate to designate two candidate checkers for each line at a polling place rather than the two per voting district that they can now designate. It also makes a provision for absentee voting by unaffiliated voters, the printing of separate, partial absentee ballots when those voters can only vote for some contested offices. There are other minor and technical changes such as adding to the definition of a primary the provision that unaffiliated electors may participate and requiring that in the Secretary of State's notification to Town Clerks that a primary for state or district office is held, the Secretary may include, if

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applicable, a statement on the eligibility of unaffiliated voters.

I urge passage of the bill, as amended, Mr. Speaker.

DEPUTY SPEAKER CIBES:

Will you remark further on the bill, as amended?

If not, staff and guests will please come to the well of the House. Members please be seated. Representative Mae Schmidle.

REP. SCHMIDLE: (106th)

Thank you, Mr. Speaker, I appreciate your recognition. At this late hour, once again, we're dealing with a very simple problem in a very complex way and I wondered if, for the edification of the Chamber, if through you, I could ask Representative Looney to run us through what would happen when we show up -- when I, as an unaffiliated voter show up at a polling place to vote for a Governor who is having a primary, through you, Mr. Speaker.

DEPUTY SPEAKER CIBES:

Representative Looney, would you care to respond to that question to run us through the process, if Representative Schmidle shows up as an unaffiliated voter.

REP. SCHMIDLE: (106th)

And both parties are having a primary for Governor.

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DEPUTY SPEAKER CIBES:

Both parties are having a primary. Representative Looney.

REP. LOONEY; (96th)

Through you, Mr. Speaker, if two political parties are holding a primary on the same day and unaffiliated voters are permitted to vote, the registrars would have to print separate enrollment lists for each party and for unaffiliated voters. If one political party permitted unaffiliated voters to vote for some but not all of the offices contested, the registrars must print a separate enrollment list and a list of unaffiliated voters.

If one political party held a primary and either did not permit unaffiliated voters to vote or allowed them to vote for all contested offices, the combined registry list could then be used as a checklist. The bill also revises the requirement that registrars compile supplementary lists to account for those who have registered or enrolled between publication of lists required and that the registration and enrollment cutoff, that is noon of the last business day before the primary, the bill would allow registrars to maintain a separate supplementary list or revised printed list by handwritten insertions or by

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reprinting the entire list. It also provides for the voting process prescribing that when two or more parties hold such primaries, again, a separate table of checkers would be set up at each polling place for unaffiliated voters, so in the case that's cited by Representative Schmidle, there would be a separate table set up at the polling place for unaffiliated voters to be checked off. At that table an unaffiliated voter would announce his name. The party in whose primary he chooses to vote, the checkers would then note this party on the checklist. The election made by the unaffiliated voter as to which primary he was going to vote in assuming that that party had opened up its primary to voting by unaffiliated voters for the particular office in question.

The checkers would then give the voter a receipt when two or more parties are holding primaries in which unaffiliated voters can vote or one party is holding a primary in which unaffiliated voters can vote for some, but not all contested offices. The receipt would be prescribed by the Secretary of the State and provided by the clerk, would indicate the voter's party enrollment or his party preference for that primary if he happened to be unaffiliated. The voter would then proceed to the appropriate machine,

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give the receipt to the machine tender and then the polling place moderator's return would have to be altered to account for unaffiliated voting as well. The certificate completed after the polls close would have to include the total number of unaffiliated voters eligible to vote in a primary and the number of them checked as having voted in each primary if the two parties were having primaries at the same time.

Also, the bill would apply to unaffiliated voters, the same penalties for unlawful voting that currently apply to party members voting in a primary and when either of two parties holding a primary on the same day does permit the participation of unaffiliated voters, the bill does require holding both primaries in the same room of the polling place in order to provide for greater accountability and to reduce the possibility of error or mistake or of inadvertence, perhaps, or failure to catch an error of having an unaffiliated voter perhaps vote in both primaries without the option for having that check and balance system.

DEPUTY SPEAKER CIBES:

Representative Schmidle, you have Floor, Madam.

REP. SCHMIDLE: (106th)

Thank you, Mr. Speaker. Once again, through you, to Representative Looney. Representative Looney, if I

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receive -- I'm an unaffiliated voter and I receive this pass or receipt or whatever you want to call it and I go to this voting machine and I hand this receipt to the machine tender, through you, Mr. Speaker, is that correct?

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY; (96th)

Through you, Mr. Speaker, yes.

DEPUTY SPEAKER CIBES:

Representative Schmidle.

REP. SCHMIDLE; (106th)

Thank you. And then the machine tender allows me to go in and close the curtain and do all of the other things I would normally do when I go to vote, is that correct, through you, Mr. Speaker?

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY; (96th)

Through you, Mr. Speaker, yes, as I understand it, that is correct.

DEPUTY SPEAKER CIBES:

Representative Schmidle.

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REP. SCHMIDLE: (106th)

Through you, Mr. Speaker, what then does the machine tender do with all of these voting passes or receipts or what have you? What happens to those?

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, I believe that the machine tender would keep those and give them to the moderator at the end of the day as documents in connection with that election.

DEPUTY SPEAKER CIBES:

Representative Schmidle.

REP. SCHMIDLE: (106th)

Thank you, Mr. Speaker. Through you, again, to Representative Looney, and that's written the statute, that's written in the bill that the machine tender would have to account for these receipts at the end of the day and maybe tally the machine votes against them or some such thing?

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, I'm not sure whether that

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is specifically referenced. I assume that would be the procedure and the moderator, with his overall responsibility for conduction of the election at the polls, would have responsibility to see that that happened.

DEPUTY SPEAKER CIBES:

Representative Schmidle.

REP. SCHMIDLE: (106th)

Through you, Mr. Speaker, to Representative Looney, are we then establishing one more unique and different procedure where every moderator and every town can set up his own procedures for how they're going to handle these receipts if in fact they're going to handle them at all, rather than be a directive from the Secretary of State. So 169 towns can have 169 procedures. Is that correct, Mr. Speaker, through you?

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, I would assume that there would be guidance from the Secretary of the State's Office to moderators that the Secretary of State holding training sessions for the certification of moderators would include in the protocol provided to the moderators, a way of handling

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such a provision should a party decide to allow unaffiliated voters to participate.

DEPUTY SPEAKER CIBES:

Representative Schmidle.

REP. SCHMIDLE; (106th)

Through you, Mr. Speaker, once again to Representative Looney, and since this is not statutorily included, since there is nothing in the statutes that says the moderators shall follow a certain procedure or shall do this or shall do this or shall do that or shall not do this or shall not do that, is there anything to preclude some overzealous machine checker from simply saving a few of those and passing them on to his friends, through you, Mr. Speaker?

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY; (96th)

Through you, Mr. Speaker, that would be an election law violation and it would subject the machine tender to penalties for dereliction of his duty as a machine tender and, again, I believe it would be the responsibility of the moderator to supervise the machine tender as he does indeed have the responsibility to make sure that the election or primary, in this case, is conducted in an orderly way in the

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polling place under his jurisdiction including supervision of all of the poll workers who are subordinate to him.

DEPUTY SPEAKER CIBES:

Representative Schmidle.

REP. SCHMIDLE: (106th)

Thank you. Through you, Mr. Speaker, once again to Representative Looney. Just about everything we've discussed here this evening has been an election violation subject to those penalties, but we all hear and we all know that all of those things go on and we keep trying to pass bills to prevent them from going on. There are a couple of communities in this state, through you, Mr. Speaker, to Representative Looney, who do use a receipt system at this point in time, but they have a verification system that goes along with it. They either destroy the receipts or make sure that they are accountable and I see this as one of the major flaws in all of this is there's no way to account for these receipts or passes or what have you as as they come to the machine checkers or the machine tenders, whoever would be responsible. I don't even know who would be responsible for gathering these.

It's also very interesting, through you, Mr. Speaker, to Representative Looney, that we are asking for three

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lines of checkers at certain primaries, a line for Republicans, a line for Democrats and a line for unaffiliated voters which means also that we have to have triplicate numbers of people who do the voter checking and who vote on all those lines, but the truth of the matter is and we all know in a number of our major urban areas, there's only one check-in line at an election time because they claim, those cities claim they don't have the money to have the proper number of check-in lines going through to allow voters to pass quickly and carefully and so they say, hey, listen, we just can't do it.

Through you, Mr. Speaker, what is to stop a voting official in a local community from saying, we don't have the money to have three lines and to hire three sets of checkers and three sets of this and three sets of that? What happens in that instance, through you, Mr. Speaker?

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, if that is a concern, I would assume that that local official would be active in hoping to get his party not to adopt this provision. All of this would only come into play in the event that a party,

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by its rules, adopts a provision allowing unaffiliated voters to participate in a primary. Other than that I assume that local officials would want to comply with the law to avoid having any possibility of election results in their jurisdiction being challenged.

DEPUTY SPEAKER CIBES:

Representative Schmidle, you have the Floor, Madam.

REP. SCHMIDLE: (106th)

Thank you. Through you, Mr. Speaker, to Representative Looney, to we have a fiscal note on this particular bill, Mr. Speaker, to Representative Looney?

DEPUTY SPEAKER CIBES:

Was that a question, Madam?

REP. SCHMIDLE: (106th)

Yes.

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, on the fiscal impact statement on the back of the bill, it provides that the passage of the bill could potentially minimally impact the Secretary of the State as she would be required to include, if applicable, a statement with a regular notification to

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local officials that a primary was to be held indicating that unaffiliated voters may vote. It's an additional requirement that's expected to be handled within normal budgetary resources and on municipal impact it indicates that passage of this bill would create a service mandate as it would expand the duties of local officials and since there could potentially be unaffiliated voters at local polling places who, in some cases, would be eligible to vote for some, but not all offices. The extra costs for additional staff and voting machines required under the bill could be significant, perhaps doubling the polling costs of some municipalities.

Since it is difficult to determine the number of future primaries in which unaffiliated voters would elect to vote, no specific impact can be assessed at this time. All that, I assume, Mr. Speaker, might be an argument to be used with the parties not to provide for this system at all.

DEPUTY SPEAKER CIBES:

Representative Schmidle.

REP. SCHMIDLE: (106th)

Through you, Mr. Speaker, hopefully the last one or two questions. Another part of this bill that I find

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very, very troublesome is the six month inability to participate in primaries or to participate in party functions. Would you please be kind enough, Mr. Speaker, through you, to Representative Looney, to run us through that once more?

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Mr. Speaker, through you, the bill, as far as unaffiliated voters and the deadline for registration, would provide that, as under current law, a voter who relinquishes his voter registration cannot, or voter enrollment, cannot enroll in a different party for six months. The bill would inhibit enrollment in any party or participation in any primary even as an unaffiliated voter for six months after removal.

Also the bill does apply the same deadline for unaffiliated voters to register to vote and participate in a primary that electors now have to enroll in a party and vote in a primary. Also, if an enrolled party member applies to have his name erased from a party list and transferred to the list of unaffiliated voters, under current law, the bill would require the registrar of voters to note on that list the effective date which would be six months

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later when he becomes eligible to vote in a primary as an unaffiliated voter.

DEPUTY SPEAKER CIBES:

Representative Schmidle.

REP. SCHMIDLE; (106th)

Thank you, Mr. Speaker. Through you, probably once again to Representative Looney, people remain unaffiliated voters because they don't want the hassle of a party. They don't want to be called by the party people. They don't want to be asked to be involved in party events. They do not want to participate in a party. They choose to remain unaffiliated and as such, they have no party enrollment. They have no ties to any party and yet with certain parts of this particular legislation they were proposing here, we are attaching, or should I say, we are hanging on almost in an albatross fashion, some of the less desirable parts, some of the less desirable elements of being a party member to the unaffiliated voter and I think that's totally unfair.

These people are unaffiliated because they don't like the rules. They don't like the regulations and they don't want to be hassled by them and here we are, once again, with this six month rule attaching to them, hassling them,

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hanging around their neck just in the same way as if they were a bona fide actual party member and I think that is an unfair way to treat unaffiliated voters who have been treated unfairly for long enough. Through you, Mr. Speaker, if I could ask Representative Looney what the thinking was behind attaching some of these six month onerous hangups on the unaffiliated voters.

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, I believe that the intention in this section of the bill was to avoid the kind of manipulation that can sometimes result with sudden shifts in a short period of time before a primary in this case. People who would suddenly come in to vote in a primary without perhaps any real commitment or involvement to that party's principles, perhaps, in some way to skewer the results of the primary, all of the ways that we know of possibly rating or possibly engaging in voting in a primary for purposes other than to elect that candidate that would be the strongest candidate for that primary for that party in the general election.

The six month provision is one that, in a sense,

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seeks to maintain some semblance of order and predictability and discipline and perhaps true affiliation in the voting process.

DEPUTY SPEAKER CIBES:

Will you remark further? Representative Schmidle.

REP. SCHMIDLE: (106th)

Thank you, Mr. Speaker. For now those are my only questions, but I think what we've done here is taken a very simple process and made it so terribly complicated that those very people who are entitled to participate in the process are really being shutout. Thank you, Mr. Speaker.

DEPUTY SPEAKER CIBES:

Will you remark further on the bill? Representative Peter Nystrom.

REP. NYSTROM: (46th)

Thank you, Mr. Speaker. A question to Representative Looney, please.

DEPUTY SPEAKER CIBES:

Please frame your question, Sir.

REP. NYSTROM: (46th)

Thank you, Mr. Speaker. I just tried to follow all that, but alas, I could not, so I've got to ask my own question. Through you, Mr. Speaker, the amendment says in

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only one party's primary are authorized to vote, I assume then if both parties in a given town decide to open up the process that the individual -- unaffiliated voter would have to choose which primary they would want to participate in provided for that it was the same, all four candidates, let's say, were running for the same office, through you, Mr. Speaker.

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, I didn't quite follow Representative Nystrom's question other than that part where he said both primaries, both parties opening their primaries to unaffiliated voters. If he would be kind enough to repeat or rephrase the question.

DEPUTY SPEAKER CIBES:

Representative Nystrom.

REP. NYSTROM: (46th)

Thank you, I'd be happy to. The second part referred to, let's say it's a Representative seat and there is a primary in the Republican and Democratic parties and an unaffiliated voter wishes to participate. I assume that they can only participate in one of those primaries,

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through you, Mr. Speaker.

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, to Representative Nystrom, that is correct.

DEPUTY SPEAKER CIBES:

Representative Nystrom.

REP. NYSTROM: (46th)

Thank you. To expand upon that. What if there was two primaries again, both parties, however, there's now the primary in the State Representative seat and the State Senate seat and the individuals wish to participate again in those primaries. Could they participate in the Democratic primary for State Senate and the Republican primary for State Representative seeing that they are two different, distinct races, through you, Mr. Speaker.

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, the answer is, no, the unaffiliated voter could only participate in one party's primary on that given day.

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DEPUTY SPEAKER CIBES:

Representative Nystrom.

REP. NYSTROM: (46th)

Thank you. You've clarified something.

DEPUTY SPEAKER CIBES:

Will you remark further on the bill? Will you remark further on the bill? Representative Foley.

REP. FOLEY: (131st)

Thank you, Mr. Speaker. To Representative Looney's comments earlier, I want to make sure I understood them. He was talking about the six month waiting period as being one that protects the party's principles and their dedications and so forth. I would ask if he is seeking to protect the parties from themselves for if they choose to accept unaffiliated voters for that reason, shouldn't they be allowed to if they wish to have them, have themselves tampered with?

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, I think that perhaps one of the concerns also is to prevent raiding in primaries of this kind. I think that there needs to be some orderliness

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and I recognize that Representative Foley does have a point about exactly how wide open the system should be, but there is also an argument to be made for at least some way of maintaining some sort of continuity in the party process or affiliation process and some element of, as we said earlier, continuation of at least some thread of likely party loyalty or something along that order to at least provide a thread of true participation and some involvement in the party's principles in the best interest of that party.

DEPUTY SPEAKER CIBES:

Representative Foley,

REP. FOLEY: (131st)

Thank you, Sir. I understand the gentleman's comments and concerns, but hasn't the court, the Supreme Court of the United States as well as Judge Kibranis in an earlier decision, haven't they ruled exactly the opposite, haven't they said it's the party's, and by the way, this might not be something that I personally believe in, let me say that right up front, I'm not a real big fan of the court's decision in this case, but hasn't the court stated, Representative Looney, that it's the parties who shall determine their membership and if you are going to impose

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an artificial six month term, and I say it's artificial, there's no magic in six months, no magic whatsoever, why does not this indeed also violate what the Supreme Court has laid down as the parties shall be able to accept those who they want. If your party or my party wishes to accept these transfers, under party, as the court has decided, shouldn't we be allowed to, through you, Mr. Speaker?

DEPUTY SPEAKER CIBES:

Representative Looney,

REP. LOONEY: (96th)

Through you, Mr. Speaker, my understanding of the Supreme Court decision was that it was fairly narrowly drawn in its language to apply, not necessarily, to party membership, but to the party who is opening up their primary process,

DEPUTY SPEAKER CIBES:

Representative Foley,

REP. FOLEY: (131st)

Through you, Mr. Speaker, in this context I believe that they are the same exact thing and I don't see any difference whatsoever in this instance to the enrollment process and the parties opening up the registration process and who shall vote in primaries. Those are simultaneous

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and I would suggest to the Chamber virtually interchangeable terms in this context. If a party has a right to determine who it shall allow to vote, then they have that right and the Supreme Court has said that. If, for example, the Republican party decided that it wished to allow Democrats to vote in its primaries, this would apply and the statute, no matter how cleverly crafted some may think it may be, would be unconstitutional because that is not precluded.

The Republican party can determine its own membership and who shall vote in it. That is what the court has said, our own personal beliefs aside. What this brings us to is the point of stationing an artificial guard at the crossing, artificial in that the six months doesn't apply and the reason it doesn't apply is very simple, because when you have September primaries for Governor and Senator and Congress and State Representative and so forth and town committee primaries that take place in January and February and so forth, the six months preceding that, what it seeks to do is to affect that a person can't be involved in, for example, a Democratic town committee primary in January or February and then leapfrog over in September into a Republican State Representative race. The idea is to separate those. If the gentleman had wished and said if

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there were a primary maybe we hold them hostage to prevent raiding or interloping or gremlins in the woodpile. Fine. But if there's no primary that's not the problem. Why shouldn't that person be able to participate in other events. This does not allow that. It does not. What we have done is we have built an artificial, arbitrary and what is probably, if challenged with somebody with more money than I, challenged to the court level, is probably also unconstitutional and I questioned the Chairman of the GAE Committee, is there even the slightest doubt in your mind, Sir, that this might in fact be unconstitutional, even is there 1% question in your mind of the constitutionality of this, Sir, through you, Mr. Speaker?

DEPUTY SPEAKER CIBES;

Representative Looney.

REP. LOONEY: (26th)

Through you, Mr. Speaker, to Representative Foley, I believe it's an interesting point. I believe the provision in the bill is constitutional. We will have -- there is always a possibility of a test of the statute in the courts which is very often how the process of law works its way out as we saw in the Tashjian decision. We may, in the future, learn something that we're not away of now,

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but I think that the bill would pass muster in its current form.

DEPUTY SPEAKER CIBES:

Representative Foley.

REP. FOLEY: (131st)

Through you, Mr. Speaker, was that a yes or a no? Is there the slightest doubt, Representative Looney, 1% shadow, through you, Mr. Speaker.

DEPUTY SPEAKER CIBES:

Representative Looney.

REP. LOONEY: (96th)

Through you, Mr. Speaker, I would say there is a significant amount of interest in the question, not doubt.

DEPUTY SPEAKER CIBES:

Representative Foley.

REP. FOLEY: (131st)

With all due respect, Mr. Speaker, given the qualification, I would have to think the gentleman is saying that there may in fact be a shadow of a doubt over the constitutionality which I can understand is reluctance and sympathize with this reluctance to state that. It might be a little embarrassing to bring the bill out and having to state that it's possibly unconstitutional, slightly possible.

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We have invented a cure for a disease that doesn't exist. The court ruling stands. We've invented some additional artificial barriers. There is a possibility of unconstitutionality, in particular in regards to the court's ruling. The bill before us should probably be defeated, Mr. Speaker. I would urge the body to do so.

DEPUTY SPEAKER CIBES:

Will you remark further on the bill? If not, will staff and guests please come to the well of the House --.

REP. JAEKLE: (122nd)

Mr. Speaker,

DEPUTY SPEAKER CIBES:

Representative Jaekle.

REP. JAEKLE: (122nd)

Mr. Speaker, it's very interesting how we got to this day and time when we're debating a bill that would concern the participation of unaffiliated voters in primary elections. It still has a rather long history and it's very interesting that it's not a new concept. For years this issue has been before the General Assembly. In fact, I seem to recall that legislation like this passed a couple of years ago, but was vetoed by the Governor and what happened when the Republican party a few years ago had a special

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convention, voted in our party rules to allow unaffiliated voters to participate in the Republican party primaries, major Republican party primaries. The Democrats in this state said, no, said we wouldn't change the law. We said the law was unconstitutional. You couldn't prevent us from our party rules, our associational rights from allowing unaffiliated voters to participate in our primaries. That wasn't the case, however. Legislation was defeated. I think that was in 1984, that would unaffiliated voters into the primaries if party rules provided and the Republican party rules do and have provided for some years now that unaffiliated voters could participate in primaries, you said no.

Legislation passed both Chambers in 1985 and the Governor said no. Well, the Republicans continued to say yes and took the case to court and won in the lower court and won in appeal and brought it to the Supreme Court, you know, the interesting thing about it is that your party and your administration has been using taxpayer dollars for years to fight the will of the Republican party and it finally goes to the Supreme Court, again, with the opposition financed through the Connecticut state taxpayer's dollars and the Republican party having to pay the bill to say that

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this was an unconstitutional restriction on our associational rights. The Supreme Court finally said, State of Connecticut, you have to allow the Republican party rule change to go into effect and, you know, we were talking about a pretty simple change, a very simple change, frankly, to our state law and here we have a bill before us that is 26 pages long dealing with how to handle in a very, very cumbersome fashion what the Supreme Court says our state has to allow to have happen and that's to allow the Republican party rule change to go into effect so that unaffiliated voters can participate in the Republican primary process and a 26-page bill that, my God, is going to be very difficult. I imagine we're trying to give some nice direction to registrars and moderators. It seems pretty simple to me when there's going to be a Republican primary that qualifies for unaffiliated voter participation, the unaffiliated voters should just show up at the polls. They've got the list. They maintain the list all the time. In fact, under another law, they're going to have to update those lists every month on their computers and I imagine ours. Why can't they just walk in, say, I'm an unaffiliated voter. This is a Republican gubernatorial primary or U.S. Senate primary, a congressional primary and I want to vote for one

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of the Republican candidates and they can say, well, there's your machine over there. Go ahead. The Supreme Court says you can. The Republican party said so for years. What's the big deal? And instead we need a 26-page bill that's going to deal with, you know, what list they're on and changing from one list to another and they're going to go to the machines and they're going to get some sort of a checker's receipt. You seem to be making very cumbersome a process that the Supreme Court says you have to allow.

I hope that this isn't some sort of a back doorway of trying to thwart not only the will of the state Republican party, but what the United States Supreme Court says our state law must permit because it seemed like a pretty simple concept. It even seemed pretty simple to administer on primary day and instead we need a 26-page Rube Goldberg-type contraption here to make this work. Mr. Speaker, I'm probably going to vote for the bill because I'm gathering that now that the Supreme Court has spoken to the Governor of the State of Connecticut by defeating a costly state taxpayer challenge to the will of the state Republican party that unaffiliated voters finally are going to be able to do what the Republican parties have invited them to do for years now and that's participate in our primary,

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but if this proves to be too cumbersome, if this proves to be some sort of an elaborate scheme through confusion and some complex procedures to deny the unaffiliated voters their true participation in Republican primaries by having them throw up their hands on primary day, saying what is this rigamaroll, you may find that we're going to have to go back to court and that some day, one of these years from now, we may be debating another bill that's pretty simple, that will say pretty much as simple as this to the election moderators and the registrars. Give the unaffiliated voter a machine on Republican primary days. Have their name checked off just like you would a Republican or a Democrat on election day or an unaffiliated voter on election day, but in some of these primaries there are Republican and Democrat primaries on the same day, you have three lists now. We all use them in our general election campaigns. What's the big deal? Three lists. Republican, Democrat, Unaffiliated and if you're an unaffiliated and it's a Republican primary, welcome. This legislation doesn't sound like it's really welcoming the unaffiliated voters to the primary process. It sounds like a rather grudging acceptance, reluctant acceptance of the Supreme Court edict that you cannot thwart the will of the Republican party to

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have unaffiliated voters participate.

If this proves too cumbersome, we're likely to be back in court again and that makes no sense for the taxpayers of this state and probably would make no sense to the unaffiliated voters that I imagine both of our parties would like to have support us come election time. I assure you the unaffiliated voters would find out a very hard and very painful way that this is some sort of a strange method of making it more difficult for them to exercise their primary rights than for registered voters to exercise primary rights, and if that's true, they're going to be upset and we're going to be back in court, more money is spent, back to the drawing board. Only the unaffiliated voters will have directly felt the legislation's chilling effect potentially on their primary voting rights. Thank you.

REP. FRANKEL; (121st)

Mr. Speaker.

SPEAKER STOLBERG;

Representative Frankel.

REP. FRANKEL; (121st)

I agree with the distinguished Minority Leader. I, too, support the bill and suggest we vote on it at this time.

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SPEAKER STOLBERG:

Will all members please be seated, staff and guests to the well of the House. The machine will be opened.

CLERK:

The House of Representatives is voting by roll call.

Will all members return to the Chamber. The House is taking a roll call vote. Will members return to the Chamber.

The House of Representatives is taking a roll call vote.

Will all members proceed to the Chamber at once.

SPEAKER STOLBERG:

Have all the members voted? Have all the members voted and is your vote properly recorded? Have all the members voted? If all the members have voted, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally?

CLERK:

Senate Bill 488, as amended by Senate Amendment Schedule "A" in concurrence with the Senate.

Total Number Voting	147
Necessary for Passage	74
Those Voting Yea	133
Those Voting Nay	14
Those Absent and Not Voting	4

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SPEAKER STOLBERG:

The bill, as amended is passed.

CLERK:

Please turn to Page 7, Calendar 943, Substitute for Senate Bill 1152, AN ACT ESTABLISHING A STATE DEPARTMENT OF PUBLIC WORKS, as amended by Senate Amendment Schedule "A". Favorable Report of the Committee on Appropriations.

SPEAKER STOLBERG:

Representative Looney.

REP. LOONEY: (96th)

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

SPEAKER STOLBERG:

Representative Looney.

REP. LOONEY: (96th)

Thank you, Mr. Speaker. Mr. Speaker, this bill creates a Department of Public Works. The Department's powers and duties are transferred from the Department of Administrative Services. The new Department's major duties under the bill are to plan and construct state capital improvements with certain exceptions, select design professional firms such as architects, engineers and

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abs

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Calendar 491, File 703, page 8. Substitute
for Senate Bill 488. AN ACT CONCERNING THE PARTICIPA-
TION OF UNAFFILIATED VOTERS IN PRIMARY ELECTIONS.
Favorable Report of the Committee on GOVERNMENT, ADMIN-
ISTRATION AND ELECTIONS.

THE CHAIR:

Senator Maloney.

SENATOR MALONEY:

Thank you, Mr. President. I would move acceptance
of the Joint Favorable Report and adoption of the bill.

THE CHAIR:

The Clerk has any amendments?

SENATOR MALONEY:

There should be one amendment, Mr. President,
I believe.

THE CHAIR:

Thank you. Clerk, please call the amendment.

THE CLERK:

LCO 6158, designated Senate Amendment Schedule
"A", offered by Senator Maloney of the 24th District.

THE CHAIR:

Senator Maloney.

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SENATOR MALONEY :

Yes, Mr. President, I would move adoption of the amendment, and request leave to summarize.

THE CHAIR:

Without objection, you may proceed.

SENATOR MALONEY:

Thank you, Mr. President. The amendment makes essentially syntactical and grammatical corrections in the language of the bill with one exception, which is the very final line. It notes that the act shall take effect from its passage, so if there were any primaries that might come under the intent of this legislation, they would indeed be covered from the passage of the bill.

THE CHAIR:

Further remarks on the amendment? All those in favor of the amendment, signify by saying aye.

SENATORS:

Aye.

THE CHAIR:

Opposed? The amendment is adopted. Senator Maloney.

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SENATOR MALONEY:

Thank you, Mr. President. The bill itself is a piece of legislation which is in effect mandated by the ruling of the Supreme Court of the United States in the case of Tasian versus the Republican Party of the State of Connecticut.

The bill provides that unaffiliated voters may participate in primary elections conducted, if the rules of the political party involved so allow.

THE CHAIR:

Further remarks? Senator Maloney.

SENATOR MALONEY:

Yes, Mr. President. If there is no objection, I would move that the matter be placed on the Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar 495, File 713, Substitute for Senate Bill 1161. AN ACT CONCERNING NOMINATION OF WOKERS' COMPENSATION COMMISSIONERS. Favorable Report of the Committee on JUDICIARY.

THE CHAIR:

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THE CHAIR:

Please give your attention to the Clerk, who will read the items that have been placed on the second Consent Calendar. Mr. Clerk.

THE CLERK:

Beginning on page 7, Calendar 486, Substitute for House Bill 5770. Calendar 488, Substitute for House Bill 5931.

Calendar page 8. Calendar...

SENATOR GUNTHER:

Mr. President, I would like to remove HB 5931 488 from the Consent Calendar, please.

THE CHAIR:

HB 5931
488 is removed. There is objection. There will be a roll call after the Consent Calendar has been voted upon.

THE CLERK:

Calendar page 8, Calendar 491, Substitute for Senate Bill 488. Calendar 495, Substitute for Senate Bill 1161.

Calendar page 9, Calendar 496, Substitute for Senate Bill 599. Calendar 499, Substitute for Senate Bill ... Correction for Senate Bill 865. Calendar

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500, Senate Bill 1172,

Calendar page 11, Calendar 508, Senate Bill 1045.

Calendar page 12, Calendar 513, Substitute for
Senate Bill 1187. Calendar 515, Substitute for Senate
Bill 1178.

Calendar page 13, Calendar 518, Substitute for
House Bill 6979. Calendar 519, House Bill 7424, Calen-
dar 521, House Bill 6138.

Calendar page 14, Calendar 523, Substitute for
House Bill 5280, Calendar 525, House Bill 7587.

Calendar page 15, Calendar 528, House Bill 7439.

That concludes the second Consent Calendar.

THE CHAIR:

Senator Avallone.

SENATOR AVALLONE:

Mr. President, I would respectfully request that
Calendar number 521, House Bill number 6138 be taken
off the Consent Calendar.

THE CHAIR:

521 is removed. There will be a separate
vote on this following the Consent Calendar vote.
Further corrections or omissions?

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The machine is open. Please record your vote.

Has everyone voted? The machine is closed.

Clerk, please tally the vote.

The result of the vote:

35 Yea

0 Nay

The second Consent Calendar is adopted.

Please remain in your seats, because there will be two separate votes, roll call votes, on those items that have been removed from the Consent Calendar.

The Senate will stand at ease.

Please go back to page 7. That item was removed from the Consent Calendar and necessitates a separate roll call vote. Mr. Clerk, please issue an announcement for a roll call, for an immediate roll call on this item.

THE CLERK:

Immediate roll call has been ordered in the

Senate. Will all Senators return to the Chamber? An

immediate roll call has been ordered in the Senate.

Will all Senators please return to the Chamber?

THE CHAIR:

The question before the Chamber is a motion

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REP. SCHMIDLE: Okay, and this additional work would be no burden for your office, thank you.

MR. EATON: It would not be a burden that would require additional funds.

SEN. MALONEY: Are there additional questions? Thank you Mr. Eaton. The next speaker is Mr.

REP. SCHMIDLE: Excuse me, Mr. Chairman.

SEN. MALONEY: Oh, I'm sorry, Representative Schmidle.

REP. SCHMIDLE: I'm sorry, I forgot, I also have a question on 1133.

SEN. MALONEY: All right, so we are back with Mr. Eaton and Representative Schmidle.

REP. SCHMIDLE: 1133 on line 250. This is the line that used to say with 45 days following an election or primary and it now says within 30 days. So you are changing the days, you are changing from 45 to 30 days just for a primary filing?

MR. EATON: That's correct.

REP. SCHMIDLE: And not for the election filings.

MR. EATON: I am not an expert on these matters and if Attorney Garfield is here he can answer this question better than I. But the point is if you prohibit contributions during a certain time period you have to change the timing of the report, so you can tell whether the restrictions are being met.

REP. SCHMIDLE: Okay, well, we'll get Mr. Garfield, thank you.

SEN. MALONEY: Thank you again, now Mr. Lenge.

MR. LENGE: Good morning, Senator Maloney, Chairman Looney and members of the Committee. I am Al Lenge, elections attorney in the Office of the Secretary of State. I am here to speak on behalf of An Act Concerning the Participation of Unaffiliated Voters in Primary Elections. Senate Bill 488 at the behalf of

MR. LENGE: (continued)

the Governor's Office and the Secretary of State. This is the bill that technically implements the United States Supreme Court decision in a matter the Republican Party versus Secretary Tashkin. In which the Supreme Court determined that a party by party rule may, if it so chooses, open up a party primary to unaffiliated electors. And in the court decision the court further concluded that the party has the flexibility to open it up for some but not for all offices, or all offices, or no offices. That is a party decision. So this bill does just that, it does not mandate open primaries, with respect to political parties. The principal section of the bill, the key-stone of the bill is section 1.

It doesn't say that if a political party opens it up it must open up for all offices. It gives the party complete flexibility.

I have provided 40 copies of two kinds of summaries because it is a complicated technical bill that goes through all of the aspects, but I will just outline the essential ones. It requires receipts to control traffic at a primary in which unaffiliated electors will be participating, there will be receipts given to all persons, Republicans, Democrats, if there is a two party primary on the same day, and unaffiliated electors choosing to vote in one or the other, or both party primaries.

The receipts will be provided at the checkers table and then given to machine tenders who will guide the unaffiliated electors into the proper machine, depending upon what party primary, if there is going to be two, that they are allowed to vote in if they choose. It is also, this receipt is necessary where the unaffiliated are permitted to vote for some, but not offices in one party primary. And the receipts are not an expensive item. We don't believe it will be blue or pink or whatever colors. Some color symbol system for identifying voters, wishing to participate.

It provides the registrars with the option, at their discretion, to allow the unaffiliated into the same machine as party members, or to have separate machines for the unaffiliated, only, where the unaffiliated

MR. LENGE: (continued)

cannot vote for all of the offices on the party primary label. And I represent to the Committee that this can be done. There is a lever on the voting machine, that would, can be switched back and forth, restricting the offices that a unafiliated elector can vote for. However, because of training time, or adjustment complications, it may be to some registrars a desirable option when unafiliateds can't vot for all offices to have a separate machine just for unafiliated only.

Lastly, it requires separate enrollment lists and separate lists of unafiliated electors in a number of primaries. This will be true when two parties political parties are having a primary on the same day. Or even when one party is having a primary in and the unafiliated electors can only vote for some of the offices. Wherever it is going to be at a polling place, two line of electors on the same day, there will be two lists, separate lists and the lists will be contained all of the names eligiable to participate and stand in that line. Do you follow me.

Now the one consequence of this is looking next year to March's Presidential preverence primary. And as of now, neither party has opened up its process to unafiliated electors for that primary event. But even if they continued to not open up for that event or we never see an open primary in Connecticut. The way this bill is drafted, I have to accent to the Committe, that it would require separate enrollment lists next year. So even without, it is the only technical item in this bill that would immediately take affect even without an open primary.

Now it is my understanding that most registrars do just that. They have a list of only people eligible to vote in the primary. But there may be some that print the registry list that contains Republican and Democrates and unafiliated names, even for their primary. And in a case of next years March primary in those towns, you have two separate registry lists used as the check lists. We felt it advisable that to control traffic, because of some of the associated

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MR. LENGE: (continued)

features of the possibility of open primaries that we should have just list of eligible people at those primaries. But the registrars are here today and can address that issue.

The only thing I am here to speak to today is the An Act Concerning the Order of the Names of Candidates on the Ballot Label for Municipal Elections, Senate Bill 1190. And I came in late, and I thought I heard the proponent of the bill say, or one of the proponents of the bill say that it was a lottery system between row by row. That it would not be a lottery for all candidates for elected municipal office, which would jumble the parties. The political parties would still have separate rows. Is that correct. Then there is no problems with that bill. I wanted to just make, if it didn't convey that qualifier, you would then lose the association of candidates for both parties. Okay. Thank you very much, and there is 40 copies of section by section reference a summary to the open primary bill, which I have given to the clerk.

SEN. MALONEY: Mr. Lenge, there may be some questions, and I have one to start. Senator Maloney for the record, and I recognize Representative Schmidle.

What you said caught my ear and I want to just go over it. You said that, the way I interpreted it was, a unaffiliated voter could come in when you vote a Democratic primary and a Republican primary and vote in both primaries at the same time?

MR. LENGE: I didn't address that question through oversight. But this bill would prohibit such occurrence. Both parties could invite them to participate, under this bill, they would be prohibited from participating in both, and there are features for checking the names and marking R or D next to the unaffiliated person, based upon which party they wish to participate.

SEN. MALONEY: All right, so the person, in affect, pops into one party temporarily or the other party temporarily.

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REP. SCHMIDLE: I understand..

MR. LENGE: candidates names, so she does support this idea, but I don't think it needs to be associated with the idea of voter education, voter education with respect to eliminating the party lever is very important, she would support it, but she would support anyway.

REP. SCHMIDLE: Okay, I understand, I just didn't know what the relation, in the statement of purpose the relation of the removal of the party level had to this particular..

MR. LENGE: Well perhaps because it would, by scrambling the names, I don't know. But by scrambling the names there is a feeling that with the elimination of the party lever candidates further down the line left to right will lose significant numbers of votes because voters tire going along left to right and by having a lottery system and perhaps the lottery system being proposed as voting district by voting district, it would adjust for that kind of fall off in voter participation, from left to right. That is probably how it is linked.

REP. SCHMIDLE: So I guess the number of votes you get depends on the throw of the dice, huh. On line 53, do you have a copy of the bill in front of you? I am sorry 488.

MR. LENGE: Yes I do.

REP. SCHMIDLE: Line 53, you are removing that reference to such official shall promptly initial both copies for application for enrollment. Are you saying there will not be more than one copy for enrollment by removing that?

MR. LENGE: That is an unnecessary, that was taken out as a technical amendment. It is an unnecessary item in there. Your question is how many separate enrollment list..

REP. SCHMIDLE: Is it going to change current practice at all by removing that?

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MR. LENGE: No.

REP. SCHMIDLE: Line 130, okay, line 62, No person shall be admitted as an elector. You have it in caps is that new language?

MR. LENGE: That is new language, anything in upper case is new language.

REP. SCHMIDLE: So you are saying that you will allow people to register up until noon on the day of the primary.

MR. LENGE: That is correct.

REP. SCHMIDLE: Which is like the exact time that the pole open.

MR. LENGE: No up until noon on the day before.

REP. SCHMIDLE: Oh, on the business day before the primary.

MR. LENGE: What it does it conforms the existing requirement allowing people to register and enroll by 12 noon to the now, in the event of open primary, the possibility that some people will register and choose to remain unaffiliated.

REP. SCHMIDLE: Okay, line 132, Is this a new authority that you are giving to the legislative body of a municipality. It says that a legislative body of a municipality votes to eliminate separate enrollment list. Did they normally have that authority?

MR. LENGE: They currently have that authority. This creates situations where that authority is over ridden by practical necessities associated with open primary. Such as this unaffiliated requirement of a separate list of unaffiliated electors, separate Republican list, separate Democate list.

REP. SCHMIDLE: But the legislative body of a municipality now has that authority?

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MR. LENGE: They do.

REP. SCHMIDLE: Wow. Line 302,

MR. LENGE: The alternative if I may say, would be both parties having lists of Republicans and unaffiliated and Democrats and unaffiliated. And unaffiliated in spite of state law prohibiting unaffiliated electors voting in both, somebody showing up there and getting checked off, and then showing up there and getting checked off, and voting twice the same day without a control mechanism.

REP. SCHMIDLE: Well I thought the registrars and probably current practice is the registrars do that anyway.

MR. LENGE: It is my understanding that in most towns have not eliminate separate enrollment lists. And certainly the preferable thing when especially with the introduction of data processing. It makes it very easy to print out identifiable kind of persons and it is best to have a list that only eligible people will checked off on. To avoid error that somebody not eligible will be checked off and permitted to participate in the primary.

REP. SCHMIDLE: Line 302 would you tell us, would you explain that?

MR. LENGE: This is allows the adjustment of the voting machine a feature that we have never before permitted and it is called the restrictive office lever. And a member of

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MR. LENGE: (continued)

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my staff, and I brought a picture of it. If the restrictive office lever is at the back or on the side of the machine, it looks something like this, not the best picture in the world. The public comment is there, and the restrictive office lever, and the two machine tenders would move it from position A to position B, depending upon if you're unaffiliated or a party member, the kind of unaffiliated that can only vote for some of the offices on that voting district's primary ballot, and so by locking it over here you'd lock out offices such as state representative that unaffiliated cannot vote under the current primary rule, Republican party primary rule.

Some registrars may worry about the ability of their mechanic to adjust that or the ability of the machine tenders at the first opportunity for this to occur in Connecticut to confuse instructions and let people in to vote for more offices than they're allowed to, so they may want to say, let's have separate machines. We're just giving the registrars that option, that's up to the Committee to decide whether it wants to give registrars the discretion or simply require separate machines to avoid error, but we think that this can be worked in, and the machine was designed with this ability, mechanical capability, in mind, to restrict offices.

REP. SCHMIDLE: Okay, I guess that was my question. What happens if the machine tender forgets to do this? What happens if 10 people come in and vote and the machine tender forgets to do it or pushes the wrong lever or the wrong button or what have you?

MR. LENGE: Then you have 10 people who shouldn't have participated in the primary that have been allowed to, which is...

REP. SCHMIDLE: In other words, would you be tallying on a particular machine, for example, supposing it's a machine where both Democrats and unaffiliated voters are voting. At the end of the voting, will there be a tally to show that 300 Democrats voted and 200

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REP. SCHMIDLE: (continued)

unaffiliated voters voted?

MR. LENGE: That's correct.

REP. SCHMIDLE: So that if, and you know the unaffiliated voters can only vote, say, for one person on that, if you find that you have really cast 400 votes for the whole, for everyone ran on that Democratic candidate list, then you know that 100 people incorrectly voted.

MR. LENGE: Voting district wide, you could determine that kind of overvote.

REP. SCHMIDLE: But you couldn't do anything about it.

MR. LENGE: Because of the checking at the end of the night, tabulating the number of unaffiliateds checked as voting and the number. Whether you could do that in a single voting machine...

REP. SCHMIDLE: Do you know of any other places where they do this, where they lock out offices, any other states that do this?

MR. LENGE: I don't know the state, Louisiana is one, but how many other states use this feature, I don't know. It has been used, and successfully.

REP. SCHMIDLE: Okay, one last question. On line 339. I said 339 but I don't think I mean 339. Would you tell us what your intent was in section 3?

MR. LENGE: Section 3 of the act?

REP. SCHMIDLE: That's where you go into the receipt thing. Okay, I think you've already explained that. Now what happens, you're going to have the machine tender standing there, and they're going to get, say if everybody's voting on one machine, which is one other section, as opposed to voting on one. It is conceivable that people can come in with little tickets or receipts or what have you, they could

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REP. SCHMIDLE: (continued)

be pink, blue and yellow. And that machine tender is going to hang on to all these, that machine tender, are they part of a tally at the end of the election? does the machine tender destroy those? What does the machine tender do?

MR. LENGE: First of all, this bill, while it's a mechanical possibility, we still kept party primaries separate, so that the same machine would not be used for a Democratic primary, Republican primary, and Republican party maybe restricted office. It'd be a separate Democratic party machine and a separate Republican party machine. So the most receipts, if you used the same machine, because unaffiliateds can only vote for some offices, the machine tender would receive two types of receipts, and then activate the restrictive office lever. And the possibility, we didn't write in the law, requirement that the receipts be associated with the particular machine and be tallied at the end of the evening. It's a check against the public counter. Some states do that. We didn't introduce that idea, but certainly the registrars could require it of the officials that they appoint, or the Committee could consider introducing that in as an extra feature. We thought we'd keep it simpler and learn from our experience here.

REP. SCHMIDLE: Is there something written on this receipt or is it just a blank colored?

MR. LENGE: The statute as proposed says a receipt as prescribed by the Secretary of the State and provided by the Clerk, so we haven't designed receipts yet.

REP. SCHMIDLE: But you plan to put something on. You wouldn't just be giving them a blank sheet, a blank ticket to give.

MR. LENGE: At this point, we haven't discussed any written material on the receipt or whether it would be blue, green or red, and it could be that the Office, to be fair, it's conceivable that the Office would

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MR. LENGE: (continued)

prescribe just a color coding type of receipt.

REP. SCHMIDLE: Okay, thank you.

SEN. MALONEY: Mr. Lenge, Sen. Maloney for the record, and then Sen. Lovegrove. If I could just follow up on a question. Talking about the back of the machine. If you were to allow this party position lock-out lever. Tenders of the face of the machine as the voter goes in. Are the offices for which the voter is not going to be able to pull the lever down, are they somehow going to be blocked from view, or are they still going to be present for view?

MR. LENGE: They'll be present for view if the elector, unaffiliated elector were to try to pull a state representative candidate switch, it wouldn't work, and there'd be explanations on the sample ballots posted in 3 locations, at least 3 in the polling place, that that's what's going to happen if you're unaffiliated.

SEN. MALONEY: I'm going to give that matter a considerable more thought, but I have to tell you that the procedure that is contemplated in terms of the lock-out lever, and then allowing voters to come into a machine, seeing offices which in the normal course you would vote for, you vote for all those offices that are on the machine in front of you, and yet not being able to, is a source that really potentially generates a tremendous amount of confusion and then frustration. You get voters who come out of the machine saying, I can't vote for governor, or I can't vote for my state representative, even though the position is on the ballot, in effect, in front of me.

I think personally, although I'm going to study the matter, the alternative of going with a separate machine for the independents voting in the primaries makes for a simpler, cleaner, neater operation. Do you want to comment on that at all? Does that strike you as correct or, are there any disadvantages to my thinking there?

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MR. LENGE: The downside of it, the reason we presented the option to the registrars, is that then you're going to increase the number of voting machines required at a primary. Some towns may not have the necessary number of machines, so it'll increase in those towns the cost. It would be a first year acquisition of additional machines at about \$1500 to \$2300 per machine, and then there'd be a continual expense of adjusting those additional machines to be adjusted by the voting machine mechanic.

But if that additional cost is acceptable, that certainly, neither the office of the Secretary of the State nor the Governor's is designed, a way, a means of implementing it, and you could simply take out the same machine and require that they be separated machines and that would be acceptable.

SEN. MALONEY: Okay, fine. I just point out that again, we have before this Committee a bill which would increase the required number of machines per town per voter because of the elimination of the party lever, and that may compensate for what taking of account the need for additional machines to be used in the primaries as well. Thank you.

Now, Sen. Lovegrove, I believe, had a question.

SEN. LOVEGROVE: It's not a question. I wouldn't put too much stock in what they do in Louisiana, since they have non-partisan primaries down there.

MR. LENGE: I understand that there are other states that use this, from the voting machine company. I just didn't report, but it has been successfully used, and was designed with that.

SEN. MALONEY: Rep. Looney.

REP. LOONEY: Thank you, Senator. Rep. Looney for the record. Mr. Lenge, this process that you described. It could be, even if all were worked out in detail, would you grant that it would create fairly cumbersome and confusing process, especially during the previous peak hours of the day, whether it's the passing out

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REP. LOONEY: (continued)

of slips and just someone being required in a sense to be a traffic cop directing people to the machines in which they could or shouldn't vote.

Also, the problem that Sen. Maloney alluded to about voter frustration, might not that also be a problem, even if you did have the separate machine designated for the unaffiliated voters, if there were offices being contested that day, but the party had voted to allow unaffiliated voters to vote for primaries for some of those offices but not for others, and if offices in those two categories had been contested that day, even if you did set up a separate machine, you would have unaffiliated voters allowed to vote perhaps for one office and not for another.

Even if you tried to make it a little bit more accessible and rational by having a separate machine for the unaffiliated voters, that problem could still exist, depending on the offices being contested in a given primary.

MR. LENGE: Yes.

REP. LOONEY: On the question of the lists, again, I'd like to review. Do you think it would be better to have integrated or separate lists? Now that's a practical matter in the polling place. In other words, if both parties at a given time had voted to allow unaffiliated voters to vote in some or all of their party primaries, for some or all offices that might be contested in the primary. What would you envision as the best way for the lists to be prepared, lists in the polling place and then lists perhaps to be collected by runners to bring back to headquarters.

MR. LENGE: This is outlined in the summary, and we feel that the best way to control traffic is a separate list of unaffiliated electors, there'd be a single checkpoint in the event of a two party primary, with both unaffiliated electors eligible to vote in both, the checkers would mark DNR next to the name of the unaffiliated electors, give them a receipt, and then

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MR. LENGE: (continued)

they'd be steered to the proper party primary.

And then separate lists of Democratic electors and Republican electors, with three checkpoints and as many sets of official and unofficial checkers.

REP. LOONEY: I see. Okay. Thanks very much.

SEN. MALONEY: Sen. Maloney for the record. Mr. Lenge, further, again, on the machine problem. It would be my expectation, and correct me if I'm wrong, that the machines if separated for the independent voters, those independent voter machines would only display those offices for which the independent voter was entitled under party rules to vote, is that correct?

MR. LENGE: That's correct.

SEN. MALONEY: Okay, fine. Are there further questions?

MR. LENGE: Thank you very much.

SEN. MALONEY: Okay, our next speaker is Page Bigelow.

PAGE BIGELOW: Good morning. Okay. My name is Page Bigelow, and I'm a staff consultant to the New York State City Commission on Integrity in Government, which was appointed by Mayor Koch and Governor Cuomo to make recommendations after the various and sundry New York City scandals.

I am here at the request of Rep. Courtney to tell you about the recommendations that the Commission made with regard to public financing of election campaigns, since I gather his proposal is derived from that report.

On April 30, 1986, the State City Commission on Integrity in Government issued its first report on the subject of the financing of political campaigns. The report began, "The manner in which a free society elects its representatives is a direct reflection of that society's moral values, a measure of the commitment