
News from STATE SENATOR **Liz Krueger**



COMMUNITY BULLETIN

March 2010

New York State Senate - 26th District

Message from Liz . . .

Events of the last month have once again highlighted the failings of too many of those who are in public service, as well as the pervasiveness of domestic violence in our society. The consequences of the actions of my now-former colleague, Hiram Monserrate, came to a head on February 9, when the Senate voted 53-8 to remove him from office in the wake of his conviction for domestic violence. After his conviction in October 2009, I immediately called on him to resign, but his unwillingness to take that step made it clear that the Senate had to act to remove him.

Unfortunately, the removal of Mr. Monserrate did not end the revelations of misbehavior by members of government. The recent allegations of domestic violence by a senior aide to Governor Paterson, as well as what appears to be inappropriate interference with that case by the State Police and the Governor, are beyond disturbing. At present these are only allegations, but if they are true, they represent a profound misuse of power. I await the completion of an investigation by the Attorney General to further comment upon the Governor's situations. And these incidents were not the end—this month, the Mayor of White Plains, a former Assemblymember, is also facing domestic abuse allegations involving attempted cover up by local police.

Beyond the issues of abuse of power in these cases, all these events highlight how far we still have to go in addressing domestic violence. New laws have expanded rights and protections, and services have improved for domestic violence victims, but the violence continues. We all hope that increased awareness of the issue has made it easier for victims to come forward, but these cases bring attention to the obstacles women and men who are abused face in getting the help they need.

Perhaps these high-profile cases will help re-energize efforts to reduce domestic violence and encourage law enforcement at all levels to treat these incidents with the same seriousness they treat violence outside the family. And the consequences faced by both the perpetrators and their enablers will encourage better behavior on the part of those in positions of authority.

Meanwhile in the maelstrom which is Albany, we still have to address the budget crisis—that is our primary job, and I am focused on making sure that these other serious issues do not interfere with the budget process. When allegations regarding Governor Paterson and his staff first broke, I called

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District Office: 211 East 43rd Street, Suite 401, New York, NY 10017 (212) 490-9535 Fax: (212) 490-2151
Albany Office: Room 609, Legislative Office Building, Albany, NY 12247 (518) 455-2297 Fax: (518) 426-6874

Email: liz@lizkrueger.com **On the web:** www.lizkrueger.com

on him to empower Lieutenant Governor Ravitch to take the lead role in daily budget negotiations for the administration. It was immediately clear to me that the issues facing the Governor, including multiple investigations, would distract him from government focus at a critical time for the State. We cannot afford to let this situation undermine the already difficult negotiations on how to address our \$9 billion budget deficit. The crisis we face, and the functioning of a democratic model of government is bigger than any one of us, and I firmly believe that the Lieutenant Governor's experience and lack of involvement in current investigations will enable him to move us forward.

Addressing the Budget Crisis: What Do You Think?
Take the Survey

I have created a survey of budget options on my website. Please take a moment to let me know your priorities by filling it out at:
http://www.nysenate.gov/Krueger_budget_survey

COMMUNITY SPOTLIGHT

Fight Illegal Hotels! Meeting March 16:

If your building has apartments which are being illegally rented out as short-term hotel units, I urge you to get come to a coalition meeting to fight Illegal Hotels and learn about new legislation addressing this problem. (See the Policy Spotlight below for more information on State legislation.) The event is organized by Housing Conservation Coordinators and other tenant groups. The meeting will take place on Tuesday, March 16 at 6:30PM at 500 West 52nd Street, Apt. 2E. For more information call Yarrow at (212) 799-9638, ext. 204.

P.S. 267-A Proposed New Elementary School for the Upper East Side:

The Department of Education has proposed a new elementary school, P.S. 267, for the 2010-11 school year, which will serve grades K-5 and will be incubated in P.S. 158 (located on York Avenue at 77th Street). During its incubation P.S. 267 will be co-located with P.S. 158 on its top two floors. P.S. 267 will open with approximately 60-75 kindergarten students in 2010-2011. An additional grade will be added each school year and the school will eventually serve approximately 350-450 elementary school students. The DOE further proposes that P.S. 267 will eventually move to its own building at 213 East 63rd Street which is the school currently known as MEETH.

P.S. 267 will give priority admission to students zoned for P.S. 59, P.S. 183 and P.S. 290, which are nearby elementary schools which are severely overcrowded. The incubation of a new elementary school in P.S. 158 addresses the need to provide additional elementary capacity in the Upper East Side neighborhood of District 2.

I know that the community has many views on this matter so I urge you to take advantage of the opportunities the DOE is providing for public comment as follows:

- 1) A public hearing for this proposal will be held at P.S. 158 on March 9, 2010 at 6:00PM;
- 2) Questions about the proposal can be directed to Kim Wong at the DOE Office of Portfolio Planning by e-mailing Portfolio@schools.nyc.gov or by calling Ms. Wong at (212) 374-5084;
- 3) Written comments can be sent to D02Proposals@schools.nyc.gov; and
- 4) Messages about the proposal can be left at (718) 935-4415.

The DOE proposal will be voted on at the next PEP meeting which is scheduled for March 22, 2010 at 6:00PM. The March PEP meeting will take place at The Michael J. Petrides School, located at 715 Ocean Terrace, Staten Island.

Census 2010 - PLEASE FILL OUT YOUR CENSUS QUESTIONNAIRE!:

The 2010 Census serves to count everyone living in the United States and is mandated by the U.S. Constitution. Federal, State and local governments, as well as businesses, base their decisions on Census data. How much money will be available for State aid? Which neighborhood needs a school, health clinic or bus line? Even where to open a new supermarket—these decisions are based on information from the Census. The number of seats in Congress which our State will have for the next decade and how the district lines are drawn are all impacted by the Census.

Unfortunately, tens of thousands of people in New York City were not counted in the last Census. That means we were passed over for millions of dollars in State and Federal resources in the last decade.

You should soon receive the mailing “Census 2010 Questionnaire.” The “Census 2010 Questionnaire” has only 10 questions and takes no more than 10 minutes to fill out. When you receive it, please be sure to fill it out and return it promptly. *Don't worry—your privacy will be protected.* It doesn't matter if you have someone living with you who might not be on the lease or whether you or others in your home are US citizens—the Census is prevented by law from sharing ANY information you provide.

My office is working with neighborhood leaders—churches, schools and businesses—to make sure everyone understand how important it is to be counted in the upcoming 2010 Census. You can make sure our community get its fair share. Let your neighbors know that returning the Census form is easy, safe and important for our future. And of course, if you have any questions or need help with the questionnaire, or any other matter, please contact my office at (212) 490-9535.

Assistance with Medicare Savings Program Applications:

If you are a senior and your income is below \$1,239/month and you are a single resident of a household (\$1,660 for a couple) you may be eligible for a Medicare Savings Program. These programs, administered by New York Medicaid offices, offer senior citizens with limited income and assets an affordable option for paying their Medicare Part A and B premiums, deductibles, and co-pays. Our office can assist you in filling out the application and answer any questions you may have about Medicare Savings Programs. Please feel free to call Zach Gamza in my office at (212) 490-9535 to arrange an appointment.

New Carbon Monoxide Detector Law Now in Effect:

Amanda's Law (A.6093A/S.367) went into effect on February 22, 2010. It requires all residences, both new and existing, to have carbon monoxide alarms installed. Previously, only homes built or bought after July 30, 2002, were required to install these devices.

The law is named for 16-year-old Amanda Hansen, who died January 17, 2009, due to a carbon monoxide leak from a defective boiler while she was sleeping at a friend's house.

The specific requirements of the law differ for new and existing residences and also vary depending on the age of the building and occupancy category. For more information, check the Department of State website: www.dos.state.ny.us/code/COAlarm.htm.

Free Tax Preparation Sites:

A number of organizations offer free assistance with tax preparation. I encourage you to take advantage of these services, which can save you money and ensure you avoid getting caught in “Refund Anticipation Loan” scams that many for-profit tax preparers engage in. Here are some sites in the 26th Senatorial District where you can get free assistance with your taxes:

- **58th Street Library**, 127 East 58th Street
Directions: 4,5 and 6 trains to Lexington Avenue-59th Street
Telephone: (212) 759-7358
Dates: February 2, 2010 - April 15, 2010

Site Hours: Tuesday: 1PM - 5PM; Saturday: 10:30AM - 2:30PM

Income Limits: No income restrictions; sponsored by AARP

Assistance available: This site prepares current-year tax returns and does electronic filing of returns only.

- **Baruch College**, 151 East 25th Street (between Lexington and Third), Library Building, 1st Floor

Directions: 6 train to 28th Street

Dates: February 4, 2010 - April 15, 2010; Closed on February 12

Site Hours: Tuesday - Thursday: 12PM - 8PM; Friday: 12PM - 7PM; Saturday: 10AM - 4PM

Languages: Spanish available on Saturdays

Income Limits: To qualify, clients must earn less than \$75,000 regardless of filing status.

- **Hunter College**, 695 Park Avenue (corner of Lexington Avenue)

Directions: 6 train to 68th Street

Telephone: (212) 772-4219

Dates: February 8, 2010 - April 14, 2010

Site Hours: Monday, Tuesday, Thursday: 6PM-9PM; Saturday: 11AM-2PM

Languages: Monday: Arabic, Bengali, Chinese, Hindi, Russian, Serbian, Tagalog; Tuesday: Chinese, Korean, Spanish, Tagalog; Thursday: Bengali, Chinese-Cantonese, Korean, Lithuanian, Russian, Tagalog; Saturday: Chinese-Cantonese, German, Korean, Tagalog

Income Limits: To qualify, clients with children must earn less than \$50,000 and clients without children must earn less than \$18,000.

- **Lenox Hill Neighborhood House**, 331 East 70th Street

Directions: 6 train to 68th Street

Telephone: (212) 744-5022 x1374

Dates: February 5, 2010 - April 15, 2010

Site Hours: Friday: 12:30PM - 3:30PM

Income Limits: No income restrictions; sponsored by AARP

Assistance available: This site prepares current-year tax returns and does electronic filing of returns only.

- **Stein Senior Center**, 340 East 24th Street

Directions: 6 train to 23rd Street

Telephone: (212) 585-6292

Dates: February 4, 2010 - April 15, 2010

Site Hours: Thursday: 9:30AM - 3PM

Income Limits: No income restrictions; sponsored by AARP.

Assistance available: This site prepares current-year tax returns and does electronic filing of returns only.

Institute for Senior Action Advocacy Training:

Let Your Voice Be Heard! The Institute for Senior Action is a 10-week course that provides leadership and advocacy education. Engage in civic affairs; learn about Federal, State & local government, senior benefits and entitlements, public speaking and a wide array of other subjects from experts in the field. Classes are held at the Hudson Guild Elliott Center (441 West 26th Street in Manhattan) on Thursdays, from March 18 to June 3. Adults 55 and older are invited to apply. To request an application or more information, please contact Bola Aribidesi at (212) 273-5261 or e-mail ifsa@jasa.org.

Venue: Hudson Guild Elliot Center

Times: Thursdays, March 18-June 3 (10AM-2:30PM)

Price: \$50, scholarships available

Phone: (212) 273-5261

Travel: C or E train to 23rd Street; M11

Website: www.jasa.org

Heat Season Rules:

The City Housing Maintenance Code and Multiple Dwelling Law requires building owners to provide heat and hot water to all tenants. Building owners are required to provide hot water 365 days per year at a constant minimum temperature of 120 degrees Fahrenheit. Between October 1 and May 31, a period designated as "Heat Season," building owners are also required to provide tenants with heat under the following conditions:

- Between the hours of 6AM and 10PM, if the outside temperature falls below 55 degrees, the inside temperature is required to be at least 68 degrees Fahrenheit.
- Between the hours of 10PM and 6AM, if the temperature outside falls below 40 degrees, the inside temperature is required to be at least 55 degrees Fahrenheit.

Tenants who are cold in their apartments should first attempt to notify the building owner, managing agent or superintendent. If heat is not restored, the tenant should call the City's Citizen Service Center at 311. For the hearing impaired, the TTY number is (212) 504-4115. The Center is open 24-hours a day, seven-days a week.

SPOTLIGHT ON POLICY

Budget Reform

My State Senate Select Committee on Budget and Tax Reform recently released recommendations based on expert testimony for how the State can restructure the way the budget process is considered and enacted in order to streamline government, reduce waste, and control spending.

The full report can be found online: http://www.nysenate.gov/files/pdfs/krueger_reform-report_web.pdf

Following decades of the State spending more money than it was taking in, the report explores multi-year budgeting, reforms to the current model of forecasting and consensus between the Governor and Legislature, and other means of implementing transparency and accountability over every dollar spent.

New York's fiscal planning process is inefficient, short-sighted and anything but transparent. We are the only State with a budget enacted prior to knowing actual revenue on April 15 and are in constant political battle over different forecasts all of which are "guesstimates." I pledged to review every budget practice and explore sensible and fiscally responsible alternatives to the budget process, and my report will now open that very important discussion to the public.

Some ideas include:

Performance Budgeting

In a performance-based budgeting model, metrics are developed to gauge whether programs are meeting a defined set of goals—the indicators and statistics then establish a more rational and responsible method for appropriating funds.

When there is a need to reduce spending mid-year, as was the case in the Fall of 2009, the Executive will often propose across-the-board cuts. While such actions demonstrate a reaction to

revenue realities, this is a rigid model of budgeting which stems from the State's lack of way for measuring the effectiveness of State-funded programs and services.

Independent or Legislative Budget Office

The lack of a binding estimate between the Executive and Legislature continues to produce problems which reverberate later in the fiscal planning process. The tendency for a forecast agreement to unwind pushes revenue estimate negotiations well into the regular budget process consuming time better spent debating and determining expenditures.

An Independent or Legislative Budget Office could play a role in establishing a more accurate and less politicized revenue forecast. Additionally, a new budget office or the Office of the Comptroller could be charged with establishing a binding official state revenue forecast.

Changing the Fiscal Year

New York has the earliest fiscal year start in the nation, and is one of only four states not operating on a July 1 – June 30 timeline. As a result, instead of determining expenditures based on reliable revenues, all parties present forecast projections in order to enact a budget long before our Federal tax deadline, April 15.

The start of New York's fiscal year was October 1 until 1916 when it was moved to July 1. In the early 1940s, the Legislature and Governor changed the date partly because they collectively wrapped up the budget months in advance of that deadline at that time, prompting our current April 1 date.

In the end, New York's current budget process is undermined by shortcuts, short-term views, and the lack of a designated process which is fiscally responsible given the size and scope of the State budget. Fiscal crisis after late budget, followed by fiscal crisis all point to the need for budget reform which promotes greater accountability, forecasting, and transparency in the process.

Family Healthcare Decisions Act

Last month, the Senate passed the Family Health Care Decisions Act (FHCDA) today by a vote of 55-3, empowering family members and others close to the patient to make medical decisions for incapacitated patients.

Only 20 percent of individuals sign a health care proxy, leaving the overwhelming majority of patients without any opportunity for decisions to be made on their behalf if they become incapacitated. After years of inaction, the Senate passed the FHCDA to create a legal mechanism for the appointment of a health care surrogate to make health care decisions for individuals who become incapacitated.

Details of the FHCDA:

Appointing a Surrogate:

- To appoint a surrogate, the FHCDA requires a determination by an attending physician that the individual lacks decision-making capacity.
- In a nursing home, this determination must be confirmed by an independent determination by a health or social services practitioner that the individual lacks decision-making capacity.
- In a hospital, the independent determination is required only if the surrogate's decision concerns withdrawal or withholding of life-sustaining treatment.
- If there is disagreement about whether the individual lacks decision-making capacity, the matter is referred to the hospital or nursing home ethics committee for resolution.

Potential Surrogates (in order of priority):

- Court-appointed guardian;
- Individual designated orally by the subsequently incapacitated individual;
- Spouse or domestic partner;
- Adult son or daughter;
- Parent;
- Adult brother or sister;
- Close relative or friend.

Medical Decisions by a Surrogate:

- The surrogate has all the powers an individual has to make their own medical decisions, including the decision to withhold or withdraw life-sustaining treatment.
- The FHCDA directs the surrogate to make decisions in accordance with the patient's wishes, including the patient's religious and moral beliefs.
- If the patient's wishes are not reasonably known and cannot be ascertained, the FHCDA directs the surrogate to make decisions in accordance with the patient's best interests.

Decisions to Withhold or Withdraw Life-Sustaining Treatment:

- Decisions to withhold or withdraw life-sustaining treatment are governed by additional standards under the FHCDA.
- A surrogate may withhold or withdraw life-sustaining treatment for an individual if that individual will die within six months with or without treatment, as determined by two independent physicians, and treatment would be an extraordinary burden to the patient.
- A surrogate may also withhold or withdraw life-sustaining treatment if the patient has an irreversible condition, as determined by two independent physicians, and treatment would involve such pain, suffering, or other burden that it would be inhumane or extraordinarily burdensome to provide treatment under the circumstances.
- Decisions to withhold or withdraw life-sustaining treatment for minors are made by the minor's parents.

Medical Decisions for Individuals Without a Surrogate:

- The FHCDA authorizes the attending physician to act as surrogate for routine medical treatment.
- For major medical treatment, a physician may act only upon the concurrence of another physician that such major medical treatment is necessary.
- A physician may withhold or withdraw life-sustaining treatment for individuals without a surrogate only upon the independent concurrence of another physician that life-sustaining treatment offers no medical benefit to the patient because the patient will die imminently and the provision of life-sustaining treatment would violate accepted medical standards.

Individuals with Mental Retardation/Developmental Disability:

- Under the FHCDA, individuals with mental retardation or developmental disabilities are within the class of individuals for whom health care surrogates may be appointed.

The Family Healthcare Decisions Act will give New Yorkers peace of mind by allowing all parents, all guardians, all partners and all families the ability to make important medical decisions. This law establishes a standard of care for incapacitated persons which has been long overdue.

Illegal Hotels

Assemblymember Dick Gottfried and I introduced new legislation (S. 6873/A.10008) to clear up ambiguities in the law which have hindered the ability of New York City agencies to take effective enforcement actions against illegal hotel operators. The legislation provides a clear definition of

what constitutes transient and permanent occupancy, which would allow City agencies to issue summonses and initiate other enforcement actions against illegal hotels

In recent years, there has been a proliferation of rental, cooperative, and condominium buildings in which thousands of residential apartments are illegally rented to tourists visiting New York for short-term stays. Advocates have documented more than 300 buildings in Manhattan alone where apartments, which are legally required to be used for long term residents, are being improperly used as transient hotel rooms. This practice disrupts the lives of the other residents living in the buildings, violates the City's zoning and safety codes, and takes away millions of dollars of revenue from legitimate hotels.

I have been engaged in an ongoing collaborative effort to end this illegal activity with Mayoral agencies, housing advocates, and a coalition of more than a dozen City and State elected officials. Through our work, we learned that one of the most significant impediments to enforcement is the lack of clarity in the State's and City's laws defining residential versus transient use of residential units. This uncertainty was recently exacerbated by a recent Appellate Division court decision which said that under the Multiple Dwelling Law, transient use of a residential building is not illegal if it is less than half the units in the building.

S.6873/A.10008 clarifies once-and-for-all that residential units are for residential, not transient use, and reverses the recent Appellate Court decision.

District Office: 211 East 43rd Street, Suite 401, New York, NY 10017 (212) 490-9535 Fax: (212) 490-2151
Albany Office: Room 609, Legislative Office Building, Albany, NY 12247 (518) 455-2297 Fax: (518) 426-6874
Email: liz@lizkrueger.com **On the web:** www.lizkrueger.com

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