NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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3:00 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I will ask that everyone present please rise and recite with me the Pledge of Allegiance.

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

THE PRESIDENT: With us today to give us the invocation is Rabbi Shmuel M. Butman.

RABBI BUTMAN: Let us pray. Every year this great Chamber introduces a resolution honoring Rebbe with ninety-seven days of education in honor of the Rebbe's birthday. And you have done so again this year; this year, ninety-seven days of education.

When the Rebbe speaks about education, he speaks about education for all people, regardless of race, religion, color and creed.

Each and every single one of you were chosen by Almighty God to be his custodians of justice, of right, for all the

people in the State of New York. Through them, my extension to all the people in the United States, and my extension again to all the people in the world. And thank God New York State has been a model for all the states in the Union and, indeed, the entire world.

And speaking about justice, I would like to share with you a few lines of Psalm 98. Is the Psalm that we're starting to say now as the Rebbe is entering his 98th year.

In that Psalm, the Psalm is, King David says, the Lord has made known His salvation. He has revealed His justice before the eyes of the nation. Sing to the Lord with a harp; with a harp and the sound of song; with trumpets and the sounds of a chauffeur, jubilate before the King, our God.

The sea in it's fullness will roar in joy, the earth, and it's inhabitants. The rivers with clap their hands. The mountains will sing together. They will rejoice before the Lord, for he has come to judge the earth. He will judge the earth with justice and the nation's with righteousness.

And as you are the legislators of

this great state, and you are the custodians of piece and justice, we play today that Almighty God should bestow his blessings upon you, upon you and upon your families. My he bestow his blessings upon you personally and communally. You should have a lot of success in all your endeavors; in your private endeavors and in your communal endeavors.

And we also pray together that you shall pass the budget successfully. Immediately. Thank you.

THE PRESIDENT: And with Rabbi today are Rabbi David Raskin and Rabbi Mosha Goldman.

Welcome to the Senate. Thank you very much, Rabbi.

Senator Marchi.

SENATOR MARCHI: Yes, Madam President. I'm delighted that the invocation recited the 97th birthday. I wasn't here on the 90 -- when -- at the beginning of that 97th odyssey. Maybe around 96 or 95 I first came here.

But, certainly, shortly after that, it has been a yearly observance, in both

chambers, to recognize the unique contributions that this valiant, spiritually, oriented group has imparted to society.

We go back to the author and, at least the prime mover of this movement, which even antedates his birth, but who gave it its presence configuration and its presence thrust.

Moseben Maimon. The Rambam. And we know him as Maimonides. Maimonides.

He took the initiative, because the -- the vast massive Jewish oral law was transmitted faithfully. But he took the initiative to organize it into an organized body. He also made the first great stride from the days of Aristotle, bringing back the Aristotilian philosophy, which has enriched mankind throughout the world. He anticipated Thomas Aquinas who gave his imprint in the Roman Catholic religion, but a thousand - well, I wouldn't say a thousand, several hundred years later, with the Aquinas Thomistic philosophy, rooted in Aristotle. And as rendered and updated by Maimonides. This great man.

Today they have fifteen hundred centers throughout the world, in every single continent; Australia, Asia, Europe, South America, North America. Every continent of the world has these centers of learning, turning on the principles that the invocation called our attention to. Moved by compassion, moved by education to generate that kind of spirit. And it transcends all kinds of religious lines. It just appeals to humanity, generally.

The greatest explement of this philosophy, in this country, was Mortimer Adler, who was not catholic, who was Jewish, who was the editor, one of the last great editors of the Encyclopedia Britanica.

This gives you a glimpse of high levels of intellectual attainment, that they have reached, and that they have disseminated, and wedded to also, a spiritual outlook on life.

So, I don't know whether we can be with you for another hundred years here, to celebrate these events, but certainly those of us who are here and those who will survive, I

know, will be making similar, and observing similar circumstances and observations in the years to come.

And to you and your colleagues, Reverend, we wish you the very, very best. And continued live and good work for the marvelous work that you are all engaged in. Thank you.

(Applause.)

THE PRESIDENT: Senator Lachman.

SENATOR LACHMAN. I was witnessed this afternoon to -- is somewhat of an unusual event. Not unusual because Lubavitch and Rabbi Butman sponsored it, a luncheon which Lubavitch gave, in the Assemblyman parlor, in which the Governor and the Assembly Speaker participated. They both shook hands, and they agreed in principle on educational goals.

And, perhaps, if you could stay for a few more days, Rabbi Butman, to April 1st, and if we include the Majority Leader in this group, we might have a budget, as you've mentioned in your remarks there.

It is good that you have come today and have brought us together as one. The

message of the late Lubavitch Rebbe of blessed memory, resinates throughout the world. His goals of people working together, living together in harmony, his goals in education, learning and study, are perhaps best exemplified by the Kibbutz houses that exists at university campuses throughout the nation. Where young people not only learn secular subjects in the classroom, but after or before class, go to the Kibbutz houses, enter into other types of learning and study, that Senator Marchi had mentioned. And Rabbi Butman, I believe, is the international coordinator of the study of Maimonides, the great Jewish philosopher. This has made a tremendous impact upon the young people of this nation.

And I hope and pray that it continues for many more years. And that Rabbi Butman and his colleagues will be here to give us the message, the late Lubavitch Rebbe, who, in his lifetime, personified the most positive principles of Jewish education, Jewish learning, Jewish charity known as Tzedakah and which is continued today by his followers

around the world.

RABBI BUTMAN: Thank you very, very much.

(Applause.)

THE PRESIDENT: Senator Markowitz first.

SENATOR MARKOWITZ: Thank you, Madam President. I'm very proud to be the Lubavitch Senator of New York State, because just about the entire international headquarters, as well as most Lubavitch residents of America, I'm blessed they live in my district.

And I have to say to you what you've heard among some of the members of the Senate doesn't even begin to tell you about the miracles that are going on in our community; the new homes, the new programs. And very shortly America's first Jewish Childrens Museum. And I've seen those plans. Those architectural plans are among the most beautiful that this nation has ever seen.

Because of the Rabbi and because of the work that the Lubavitch organizations have carried on, the contributions that they make

to Judaism, and I have to add for all people. For all people. Because their motivation is to serve all. It is one that all of us should -- should excel at, should be excited about, and acknowledge.

And I'm so delighted that every year, Rabbi, that you an your colleagues are here. And I would like to make an offer through you, I'm sure, that any day, any of my colleagues would like to take a tour of the International Headquarters and see some of the miracles that have occurred in America, in New York, and in Brooklyn, because of Lubavitch organizations under the spiritual leadership ship of the Rabbi, I invite you at your convenience. Thank you very much.

(Applause.)

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you, Madam President. On behalf of Senator Connor, and all of us here, we'd like to welcome Rabbi Butman and the entire contingent, and to bring in the 97 days of education that will symbolize the Lubavitch Rebbe's 97 years. Unfortunately five of them we have not had him

here to share with us, and hope that in the 98th year the work that he championed, and was so much the catalyst, will continue.

Wasn't until Senator Markowitz spoke that I realized that the Jewish Childrens Museum would be built. And it made me think of something that I would just like to share with you, Madam President, with Rabbi Butman, and everyone here. When I was talking, I guess, about a month ago, during Black History Month, about the African burial grounds, that was discovered approximately at the confluence of Broadway and Duane and Reed and Elks Street in lower Manhattan, and the work that we did to memorialize and preserve that area, we would not have been able to have done that without Section 106 of the Federal Historic Preservation Act of 1969.

That was actually put into law by those, who unfortunately lost, the Jewish cemeteries about six blocks away, in 1961, when construction destroyed them.

And so, there is so much culture and so much history of all ethnicities and the -- the education teachings that the Lubavitch

Youth Foundation and all of the other educational organizations that our learned Rabbis could join use to today, are associated with, must be congratulated.

And at this time of year, as we always do, we're so happy, through Senator Marchi and Senator Lachman, that we can have them come all the way to Albany and share some of their great teaching with us.

I would like to say, Rabbi Butman, that I'm still trying to learn more about the culture and tradition of the Lubavitch movement. I didn't know how the green bagels, that Senator Markowitz was passing out, have anything to do with it, but at the same time we are always very grateful to have you among us.

(Applause.)

THE PRESIDENT: On behalf of the Senate -- Senator Skelos.

SENATOR SKELOS: If I could, on behalf of Senator Bruno, I, too, would like to welcome you to the Chambers. We look forward to your visit every year. I cannot match the eloquence of my colleague, Senator John

Marchi, but what I would like to do is since we are still being paid, and it's not April 1st, if I could present a dollar to you on behalf of myself, and the other members, as an act of charity.

THE PRESIDENT: Rabbi, on behalf of the Senate, I extend to you all of our courtesies and wish you the very best in your celebration.

Let's have a round of applause.

(Applause.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If we could go back to the regular order.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, March 14th, the Senate met pursuant to adjournment.

The Journal of Saturday, March 13th, was read and approved on motions. Senate adjourned.

THE PRESIDENT: Without objection the Journal stands approved as read.

Presentation of Petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of Standing Committees.

The Secretary will read.

THE SECRETARY: Senator Leibell from the Committee of Civil Service and Pensions Reports: Senate Print 1726, by Senator Spano, an act to amend the Retirement and Social Security Law.

2027, by Senator Spano, an act to amend the Retirement and Social Security Law.

2663, by Senator Leibell, an act to amend the Retirement and Social Security Law.

2968, by Senator Hannon, an act to amend the Civil Service Law.

3256, by Senator Leibell, an act to ammend the Retirement and Social Security Law and;

3613, by Senator Leibell, an act to amend the Administrative Code of the City of New York.

Senator Hoffmann, from the Committee On Agricultural reports:

Senate Print 1724, by Senator Kuhl, an act to amend the Agriculture and Markets

Law.

1725, by Senator Kuhl, an act to amend the Agriculture and Markets Law.

1772, by Senator Kuhl, an act to amend the Agriculture and Markets Law.

2728 by Senator Kuhl, an act to amend the Agriculture and Markets Law and the Vehicle and Traffic Law.

2729, by Senator Kuhl, an act to amend the Agriculture and Markets Law; and

2785, by Senator Johnson, an act to amend the Agriculture and Markets Law.

All Bills ordered direct for third reading.

THE PRESIDENT: Without objection, all bills directed to third reading.

Reports of Select Committees.

Communications and Reports from state officers.

Motions and Resolutions.

Senator Farley.

SENATOR FARLEY. Thank you, Madam President. I have a motion to amend a bill that's recalled from the Assembly on behalf of

Senator Alesi. I wish to call up his bill, Print Number 96, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 119, by Senator Alesi, Senate Print 96, an act to amend the General Business Law.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill passed.

THE PRESIDENT: The Secretary will call the roll in reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

SENATOR FARLEY. Madam President, I now offer the following amendments.

THE PRESIDENT: Amendments received, Senator.

SENATOR FARLEY: On behalf of Senator Alesi, again, Madam President, on page 4, I offer the following amendments to Calendar 58, Senate Print 94, and I ask that that bill retain its place in the Third Reading Calendar.

THE PRESIDENT: Amendments received, and it will retain its place on the Third Reading Calendar.

SENATOR FARLEY: Madam President, on behalf of Senator Larkin, on page 8, I offer the following amendments to Calendar Number 117, Senate Print 2105, and I ask that that bill retains its place in the Third Reading Calendar.

THE PRESIDENT: The amendment is received and the bill will retain its place on the Third Reading Calendar.

Senator Balboni.

SENATOR BALBONI: Thank you, Madam President. I'd like to offer an amendment on page number 4, Calendar Number 48, by Sentor Holland, Print Number 16. And I would further ask that the Bill retains its place on the Third Reading Calendar.

THE PRESIDENT: The amendment is so received and the bill will retain its place on the Third Reading Calendar.

Senator.

SENATOR BALBONI: Thank you, Madam President. In addition, which I'd like

to follow -- -- offer the following amendment to the bill, by Senator Skelos, located on page number 8, Calendar Number 118, Print Number 11-A. And I would also ask that this bill retains its place in the Third Reading Calendar.

THE PRESIDENT: The amendment is received and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a privileged resolution at the desk by Senator McGee. I ask that it be read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator McGee, Legislative Resolution 637, Congratulating Kimberly Ann Pressler upon being crowed Miss USA 1999.

Whereas, the State of New York takes great pride in acknowledging outstanding individuals who distinguish themselves in service to their community, and who serve as

an inspiration to their family, friends and peers; and

Whereas, Kimberly Ann Pressler of Franklinville, New York, was crowned Miss USA on Friday, February 5, 1999. As Miss New York, USA, Kimberly Ann Pressler won this esteemed Annual Pageant, which was held in Branson, Missouri; and

Whereas, in winning the Miss USA Pageant, Kimberly Pressler competed against 50 talented young women from across the nation for the title and the opportunity to compete for the title of Miss Universe.

Kimberly Pressler will go on to represent the United States of America in the Miss Universe Pageant this May in Trinidad and Tobago.

In receiving this prestigious title of Miss USA, Kimberly Pressler is the first person to represent the State of New York in both the Miss Teen USA and Miss USA Pageants.

Upon completion of her duties as Miss USA next year, Kimberly Pressler plans to resume her studies in the pursuit of attaining and International Business Degree; and

Whereas, Kimberly Pressler has assumed the unique public relations role that comes with being named Miss USA; she will use her position to reach out to people and bring greater public awareness to the treatments and research of ovarian cancer; and

Whereas, Kimberly Pressler is also a member of a loving family; her proud and supportive parents, Master Sergeant Stanley Pressler of Holloman Air Force Base, New Mexico and Michelle Kersch of Franklinville, New York; her stepmother, Debbie Pressler, as well as her brothers and sisters, Jill, Richard, April and Ryan, share in her excitement over the opportunities presented by this esteemed award.

This outstanding young woman who has accomplished so much and is graced with talent and intelligence as well as a belief in herself and humankind, will serve as a role model for young people and an exceptional representative of New York State as well as the United States of America; her message of hard work, commitment and person responsibility presents a timely lesson to the

youth of today; now, therefore, be it.

Resolved, That this Legislative Body pause in its deliberations to commend Kimberly Ann Pressler upon being crowned Miss USA 1999; and wish her continued success as she represents the State of New York and the United States of America in the upcoming Miss University Pageant; and be it further

Resolved, That a copy of this Resolution, suitably engrossed, be transmitted to Kimberly Ann Pressler of Franklinville, New York, along with our sincere best wishes and congratulations.

THE PRESIDENT: Senator McGee.

SENATOR MCGEE: Thank you, Madam President. It gives me great pleasure to stand and introduce today Miss USA, Kimberly Ann Pressler, from Franklinville, New York.

As a neighbor of Kim's, as she was growing up, I found her to be lovely young lady. And I have found that through the years she was grown even more beautiful, with poise and the ability to become a great spokesperson for not only the State of New York, but for the United States in general, as she moves

forward to participate in the Miss Universe competition.

She has chosen as her charge the task of bringing public awareness to the people of public -- of ovarian cancer. And I think that in itself is a huge, tremendous task. And I'm very pleased to do that.

But I think one of the major portions of this resolution, that we just read, does say to the fact that she is an outstanding young woman. And that she has so much talent and intelligence, and a belief in herself and in humankind, that she serves as a wonderful role model, not only for the young people, but for the older people of New York State. And she's an exceptional, exceptional representative for New York State. And she shows hard work, commitment, and dedication to reach a goal that she has looked forward for a number of years.

I'm just absolutely delighted to introduce my neighbor and the former Miss New York State, and now presently the Miss USA, Miss Kimberly Ann Pressler, of Franklinville, New York.

Kim.

(Applause.)

THE PRESIDENT: The question is on the resolution. All in favor signify with by say aye.

(Response of Aye.)

THE PRESIDENT: Opposed nay.

(No response heard.)

THE PRESIDENT: The Resolution is adopted. And as President of the Senate, I extended to you all the courtesies of the House and a sincere congratulation.

Senator Skelos.

SENATOR SKELOS: Madam President, at this time could we have the reading of the non-controversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 108, by Senator Nozzolio, Senate Print 642, an act to amend -

SENATOR PATERSON: Lay aside for the day.

THE PRESIDENT: The bill is set aside -- laid aside. Excuse me, for the day.

THE SECRETARY: Calendar Number 168, by Senator Skelos, Senate Print 966, an act to amend the Penal Law, in Relation to Sentencing.

SENATOR PATERSON: Lay aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 183, by Senator Libous, Senate Print 2085, an act to amend the Penal Law, in Relation to Increasing the Penalties for Repeat Convictions.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4, This act shall take effect on the first day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Madam President, I was just flustered about a moment in the corner there. I actually meant to speak on a

different bill.

THE PRESIDENT: All right. The Secretary will announce the results.

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 209, by Senator Spano, Senate Print 1257, an act to amend the Social Services Law, in Relation to Inquiring -- Requiring Investigation.

THE PRESIDENT: Read the last section.

THE SECRETARY: Second 3, this act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 232, by Senator Meier, Senate Print 2586, an act to amend the Real Property Tax Law, in Relation to adding the Town of Montague in Lewis county.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2, this act shall take effect on the 1st day of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 236, by Senator Lavalle. Senate Print 2475.

SENATOR PATERSON: Lay aside for the day.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 249, by Senator Stafford, Senate Print 734, an act to authorized the Village of Saranac Lake, County of Franklin, to Discontinue.

THE PRESIDENT: A home rule message is at the desk. Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 259, by Senator Goodman, Senate Print 1103, an act to amend the Transportation Law, in Relation to Disclosure.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2, This act shall take effect on the 120th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55. Nays 1. Senator Kuhl recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 260, by Senator Farley, Senate Print 2289, an act to amend the Vehicle and Traffic Law, in relation to allowing a combination of vehicles to be operated.

THE PRESIDENT: Read the last

section.

THE SECRETARY: Section 2, this act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 262, by Senator Kuhl, Senate Print 2765, an act to amend the Highway Law, in relation to the temporary discontinuance of snow and ice removal.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2, this act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 279, by Senator Skelos, Senate Print 114, an act to amend the Domestic Relations Law and

the Penal Law in relation to the suspension and revocation of a firearm license.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4, this act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the non-controversial reading of the calendar.

SENATOR SKELOS: Madam President, if we could go on to the controversial calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 168, by Senator Skelos, Senate Print 966, an act to amend the Penal Law, in relation to sentencing of persistent, violent felony offenders.

SENATOR PATERSON: Just an explanation for the benefit of Senator

Schneiderman, is that correct?

THE PRESIDENT: All right. Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Madam President, this bill amends the Penal Law to require that a defendant who has been separately convicted and sentenced for three or more violent felonies, and it was determined by the Court to be a persistent, violent felony offender, be sentenced to life in prison without parole.

THE PRESIDENT: Read the last section.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, on the bill, I understand that this is an effort to be as tough as we possibly can over -- again, on the issue of violent crime. I have to rise to comment, though, that on Saturday, in Asheville, North Carolina, a tremendously powerful boom exploded in a family planning clinic. And there -- damage was averted only because most of the boom didn't not actually detonate.

I think that if we are going to be

tough on time, it's about time for us to move on the clinic anti-violence bill.

And I would urge that that be the next matter that we take up when we're trying to be tough on violent felons. Thank you.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Madam President. I think I will speak during the roll.

THE PRESIDENT: Read the last section.

THE SECRETARY: Second 4, this Act shall take effect on the 1st day of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane to explain your vote.

SENATOR DUANE: Thank you, Madam President. I'm concerned that this law would take away too much discretion from judges and district attorneys.

And I'm afraid that we may end up sending people away for life for minor crimes that somehow end up being labeled as violent

offenses.

I think we all want to see hard-core violent criminals face appropriate punishment, but I have faith that D.A.s and judges will be able to do their jobs justly, and I will be voting in the negative on this. Thank you.

THE PRESIDENT: Senator Duane will be recorded as voting in the negative.

Read the last section.

Call the roll.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 168 are Senators Duane, Mendez, Sampson, Schneiderman, Seabrook, Smith and Waldon.

Ayes -- also Senator Paterson. Ayes 48. Nayes 8.

THE PRESIDENT: The Bill is passed.

Senator Skelos, that completes the controversial reading of the calendar.

SENATOR SKELOS: Is there any housekeeping at the desk, Madam President?

THE PRESIDENT: No, Senator, there is not.

SENATOR SKELOS: There being no further business, I move we adjourn until Tuesday, March 16th, at 3 p.m. sharp.

THE PRESIDENT: On motion the Senate stands adjourned until Tuesday, March 16th, at 3 p.m.

(Whereupon, at 3:35 p.m., the Senate adjourned.)