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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 15, 2006

11:22 a.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

1 P R O C E E D I N G S

2 THE PRESIDENT: The Senate will  
3 please come to order.

4 I ask everyone present to please  
5 rise and repeat with me the Pledge of  
6 Allegiance.

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

9 THE PRESIDENT: In the absence of  
10 clergy, may we bow our heads in a moment of  
11 silence, please.

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

14 THE PRESIDENT: Reading of the  
15 Journal.

16 THE SECRETARY: In Senate,  
17 Tuesday, February 14, the Senate met pursuant  
18 to adjournment. The Journal of Monday,  
19 February 13, was read and approved. On  
20 motion, Senate adjourned.

21 THE PRESIDENT: Without  
22 objection, the Journal stands approved as  
23 read.

24 Presentation of petitions.

25 Messages from the Assembly.

1 Messages from the Governor.  
2 Reports of standing committees.  
3 Reports of select committees.  
4 Communications and reports from  
5 state officers.

6 Motions and resolutions.

7 Senator Skelos.

8 SENATOR SKELOS: Madam President,  
9 I believe there are substitutions at the desk.  
10 If we could make them at this time.

11 THE PRESIDENT: The Secretary  
12 will read.

13 THE SECRETARY: On page 24,  
14 Senator Saland moves to discharge, from the  
15 Committee on Education, Assembly Bill Number  
16 879A and substitute it for the identical  
17 Senate Bill Number 2731A, Third Reading  
18 Calendar 238.

19 And on page 27, Senator Volker  
20 moves to discharge, from the Committee on  
21 Local Government, Assembly Bill Number 9529  
22 and substitute it for the identical Senate  
23 Bill Number 6429, Third Reading Calendar 273.

24 THE PRESIDENT: Substitutions  
25 ordered.

1 Senator Skelos.

2 SENATOR SKELOS: Madam President,  
3 there's a Resolution 3540 at the desk, by  
4 Senator Morahan. Could we have the title read  
5 and move for its immediate adoption.

6 THE PRESIDENT: The Secretary  
7 will read.

8 THE SECRETARY: By Senator  
9 Morahan, Legislative Resolution Number 3540,  
10 paying tribute to Catherine McDougall for her  
11 many years of dedicated service to the  
12 Rockland County community by St. Augustine's  
13 Church, New City, New York, on February 26,  
14 2006.

15 THE PRESIDENT: All in favor of  
16 the resolution please signify by saying aye.

17 (Response of "Aye.")

18 THE PRESIDENT: Opposed, nay.

19 (No response.)

20 THE PRESIDENT: The resolution is  
21 adopted.

22 Senator Skelos.

23 SENATOR SKELOS: Madam President,  
24 there's a Resolution 3560 at the desk, by  
25 Senator Sabini. Could we have the title read

1 and move for its immediate adoption.

2 THE PRESIDENT: The Secretary  
3 will read.

4 THE SECRETARY: By Senator  
5 Sabini, Legislative Resolution Number 3560,  
6 honoring Frank Giannone upon the occasion of  
7 his induction into the Long Island University  
8 Athletics Hall of Fame.

9 THE PRESIDENT: All in favor of  
10 the resolution please signify by saying aye.

11 (Response of "Aye.")

12 THE PRESIDENT: Opposed, nay.

13 (No response.)

14 THE PRESIDENT: The resolution is  
15 adopted.

16 Senator Skelos.

17 SENATOR SKELOS: Madam President,  
18 there's a resolution at the desk by Senator  
19 Hassell-Thompson. Could we have the title  
20 read and move for its immediate adoption.

21 THE PRESIDENT: The Secretary  
22 will read.

23 THE SECRETARY: By Senator  
24 Hassell-Thompson, Legislative Resolution  
25 Number 3561, commending the life and

1 accomplishments of Betty Friedan, feminist  
2 crusader, and expressing sincerest sorrow upon  
3 the occasion of her death.

4 THE PRESIDENT: All in favor of  
5 the resolution please signify by saying aye.

6 (Response of "Aye.")

7 THE PRESIDENT: Opposed, nay.

8 (No response.)

9 THE PRESIDENT: The resolution is  
10 adopted.

11 Senator Skelos.

12 SENATOR SKELOS: Madam President,  
13 there's a Resolution 3559 at the desk, by  
14 Senator Larkin. Could we have it read in its  
15 entirety.

16 THE PRESIDENT: The Secretary  
17 will read.

18 THE SECRETARY: By Senator  
19 Larkin, Legislative Resolution Number 3559,  
20 honoring the 761st Tank Battalion for their  
21 heroic efforts during World War II.

22 "WHEREAS, Members of the United  
23 States Armed Forces, who served so faithfully  
24 and courageously in wars in which our nation's  
25 freedom was at stake, as well as in the

1 preservation of peace during peacetime,  
2 deserve the highest commendation of this  
3 Legislative Body; and

4 "WHEREAS, February has been  
5 designated as Black History Month in our  
6 nation to celebrate and recognize the  
7 contributions of the black community. This  
8 joyful month-long celebration is held across  
9 New York State and America to fittingly note  
10 the contributions of African-Americans  
11 throughout history and in all fields of  
12 endeavor; and

13 "WHEREAS, This Legislative Body is  
14 justly proud to honor the 761st Tank  
15 Battalion, the 'Black Panthers,' for their  
16 heroic efforts during World War II; and

17 "WHEREAS, This is a special tribute  
18 to the men of the 761st Tank Battalion,  
19 strong, dedicated men whose courageous deeds  
20 received so little notice in spite of their  
21 immense value in the successful defeat of  
22 Germany in World War II; and

23 "WHEREAS, The first black armor  
24 unit to see combat, the 761st Tank Battalion  
25 had no headlines or movies to extol their

1        tremendous exploits.  Although they  
2        spearheaded many of General Patton's attacks,  
3        they were never represented in any films; and

4                "WHEREAS, For 183 days, the Black  
5        Panthers continually engaged in combat and  
6        defeated the best that Germany had, although  
7        they were usually outnumbered and faced  
8        superior weaponry.  It was the 761st Tank  
9        Battalion who punched the hole in the  
10       Siegfried Line through which General Patton's  
11       tanks subsequently poured and raced across  
12       Germany; and

13               "WHEREAS, Silence echoes around the  
14       deeds of the 761st Tank Battalion in spite of  
15       their exceptional courage and boldness in  
16       battle.  They fought for six months without  
17       relief, and also defeated superior German  
18       forces that had stymied, stalled and  
19       frustrated other units of General Patton; and

20               "WHEREAS, The German breakthrough  
21       in the Ardennes Forest precipitated the famous  
22       action known to the world as the Battle of the  
23       Bulge.  The 761st Tank Battalion was tasked  
24       with taking the German stronghold in the town  
25       of Tillet.  Every other American unit that was

1 assigned to take the town had been beaten  
2 back; and

3 "WHEREAS, Tanks, artillery, and  
4 infantry inside the Ardennes Forest had  
5 assaulted Tillet, and all had failed it take  
6 it. After a week of steady fighting against  
7 entrenched SS troops, the Black Panthers took  
8 Tillet and drove the Germans out in full  
9 retreat. These are but a few of their  
10 remarkable accomplishments during the war;  
11 and

12 "WHEREAS, This Legislative Body is  
13 very pleased to have this opportunity to  
14 express its gratitude to the men of the  
15 761st Tank Battalion for their tremendous  
16 sacrifices made for our nation and for the  
17 benefit of all Americans; now, therefore, be  
18 it

19 "RESOLVED, That this Legislative  
20 Body pause in its deliberations to honor the  
21 761st Tank Battalion for their heroic efforts  
22 during World War II; and be it further

23 "RESOLVED, That a copy of this  
24 resolution, suitably engrossed, be transmitted  
25 to the members of the 761st Tank Battalion."

1 THE PRESIDENT: Senator Larkin.

2 SENATOR LARKIN: Thank you, Madam  
3 President.

4 You know, we all know that this is  
5 Black History Month. And during this month,  
6 the Military Order of Retired Officers cited  
7 the 761st Tank Battalion as one of the most  
8 distinguished combat units in Europe in  
9 World War II.

10 This was a unit that was at Camp  
11 Claiborne, Louisiana, in 1942. They then went  
12 and trained in Camp Hood, Texas, where one of  
13 the most hard-nosed combat leaders, General  
14 Lear, declared the battalion one of the finest  
15 that he'd ever seen and fit to go to Europe.

16 They landed in Europe in  
17 October 1944. At that time in the march east,  
18 General Patton said, "I need a young tank  
19 battalion with full capacity to move forward.  
20 I don't care where they come from or what they  
21 are." Someone said to him: "They're people  
22 of color." He said, "Are they American  
23 soldiers?" He was answered: "Yes, they are."

24 They went into combat for 183 days.  
25 They spearheaded. The Fourth Armored Division

1           was given a lot of credit for what it did in  
2           Europe, but every historian will tell you,  
3           without the efforts of the 761st, the Fourth  
4           Armored would not have been successful.

5                        Many of the decorations in that  
6           unit included one Congressional Medal of  
7           Honor, twenty-some Distinguished Service  
8           Crosses, Silver Stars, and Bronze Stars. And  
9           yet during that period, never was this  
10          discussed in any of our newspapers or  
11          radios -- and there was very little television  
12          in those days -- attesting to what these  
13          dedicated men and women put up with.

14                       This tank battalion came home, was  
15          deactivated, but it had never lost the lust of  
16          being part and parcel of the combat victories  
17          in Europe.

18                       I stand here very proud. I  
19          commanded an all-black unit in Korea in 1950.  
20          I was told they were the worst outfit to go.  
21          They became one of the best, just like the  
22          761st. For Black History Month, we should all  
23          be proud.

24                       And, Madam President, I'd like to  
25          open this up because I think we should respond

1 and honor such a distinguished military unit.

2 THE PRESIDENT: All in favor of  
3 the resolution please signify by saying aye.

4 (Response of "Aye.")

5 THE PRESIDENT: Opposed, nay.

6 (No response.)

7 THE PRESIDENT: The resolution is  
8 adopted.

9 Senator Skelos.

10 SENATOR SKELOS: Madam President,  
11 if we could open up the resolution. If  
12 anybody wishes not to sponsor the resolution,  
13 they should notify the desk.

14 THE PRESIDENT: Any member who  
15 does not wish to cosponsor the last  
16 resolution, please notify the desk.

17 Senator Skelos.

18 SENATOR SKELOS: Madam President,  
19 if we could go to the noncontroversial reading  
20 of the calendar.

21 THE PRESIDENT: The Secretary  
22 will read.

23 THE SECRETARY: Calendar Number  
24 47, by Senator Padavan, Senate Print 5979A, an  
25 act to amend the Tax Law, in relation to

1 reducing.

2 THE PRESIDENT: There is a local  
3 fiscal impact note at the desk.

4 Read the last section.

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

7 THE PRESIDENT: Call the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 41.

10 THE PRESIDENT: The bill is  
11 passed.

12 THE SECRETARY: Calendar Number  
13 107, by Senator Volker, Senate Print 4004, an  
14 act to allow a filing for state aid by the  
15 Gorham-Middlesex Central School District.

16 THE PRESIDENT: There is a local  
17 fiscal impact note at the desk.

18 Read the last section.

19 THE SECRETARY: Section 4. This  
20 act shall take effect July 1, 2005.

21 THE PRESIDENT: Call the roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes, 43.

24 THE PRESIDENT: The bill is  
25 passed.

1                   THE SECRETARY:     Calendar Number  
2     109, by Senator Robach, Senate Print 3331, an  
3     act to amend the Civil Service Law, in  
4     relation to authorizing.

5                   THE PRESIDENT:     Read the last  
6     section.

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

9                   THE PRESIDENT:     Call the roll.  
10     (The Secretary called the roll.)

11                   THE SECRETARY:     Ayes, 43.

12                   THE PRESIDENT:     The bill is  
13     passed.

14                   THE SECRETARY:     Calendar Number  
15     116, by Senator Maziarz, Senate Print 4074, an  
16     act to amend the Workers' Compensation Law, in  
17     relation to the imposition.

18                   THE PRESIDENT:     Read the last  
19     section.

20                   THE SECRETARY:     Section 6. This  
21     act shall take effect immediately.

22                   THE PRESIDENT:     Call the roll.  
23     (The Secretary called the roll.)

24                   THE SECRETARY:     Ayes, 43.

25                   THE PRESIDENT:     The bill is

1 passed.

2 THE SECRETARY: Calendar Number  
3 153, by Senator Little, Senate Print 728, an  
4 act to amend the Tax Law, in relation to  
5 timing.

6 THE PRESIDENT: Read the last  
7 section.

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

10 THE PRESIDENT: Call the roll.  
11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 43.

13 THE PRESIDENT: The bill is  
14 passed.

15 THE SECRETARY: Calendar Number  
16 168, by Senator Fuschillo, Senate Print 6354,  
17 an act to amend the Agriculture and Markets  
18 Law, in relation to food safety education.

19 THE PRESIDENT: Read the last  
20 section.

21 THE SECRETARY: Section 3. This  
22 act shall take effect on the same date as  
23 Chapter 665 of the Laws of 2005.

24 THE PRESIDENT: Call the roll.  
25 (The Secretary called the roll.)

1                   THE SECRETARY:     Those recorded in  
2     the negative on Calendar Number 168 are  
3     Senators Klein and A. Smith.

4                   Ayes, 43.   Nays, 2.

5                   THE PRESIDENT:     The bill is  
6     passed.

7                   THE SECRETARY:     Calendar Number  
8     178, by Senator Larkin, Senate Print 5376B, an  
9     act to amend the Civil Service Law, in  
10    relation to certain adverse personnel actions.

11                  THE PRESIDENT:     Read the last  
12    section.

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

15                  THE PRESIDENT:     Call the roll.  
16                   (The Secretary called the roll.)

17                  THE SECRETARY:     Ayes, 45.

18                  THE PRESIDENT:     The bill is  
19    passed.

20                  THE SECRETARY:     Calendar Number  
21    216, by Senator Maziarz, Senate Print 3381, an  
22    act to amend the Labor Law, in relation to  
23    requiring.

24                  THE PRESIDENT:     Read the last  
25    section.

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

3                   THE PRESIDENT:     Call the roll.  
4                   (The Secretary called the roll.)

5                   THE SECRETARY:     Ayes, 45.

6                   THE PRESIDENT:     The bill is  
7     passed.

8                   THE SECRETARY:     Calendar Number  
9     217, by Senator Robach, Senate Print 3521, an  
10    act to amend the Workers' Compensation Law, in  
11    relation to presumption.

12                  THE PRESIDENT:     Read the last  
13    section.

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

16                  THE PRESIDENT:     Call the roll.  
17                  (The Secretary called the roll.)

18                  THE SECRETARY:     Ayes, 45.

19                  THE PRESIDENT:     The bill is  
20    passed.

21                  THE SECRETARY:     Calendar Number  
22    237, by Senator LaValle, Senate Print 685A, an  
23    act to amend the State Finance Law, in  
24    relation to commodities and services  
25    contracts.

1 THE PRESIDENT: Read the last  
2 section.

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

5 THE PRESIDENT: Call the roll.  
6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 45.

8 THE PRESIDENT: The bill is  
9 passed.

10 THE SECRETARY: Calendar Number  
11 238, substituted earlier today by Member of  
12 the Assembly Tokasz, Assembly Print Number  
13 879A, an act to amend the Education Law.

14 THE PRESIDENT: Read the last  
15 section.

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

18 THE PRESIDENT: Call the roll.  
19 (The Secretary called the roll.)

20 THE PRESIDENT: Senator LaValle,  
21 to explain your vote.

22 SENATOR LaVALLE: Thank you,  
23 Madam President.

24 I'm going to support this  
25 legislation. I know I've had discussions with

1 the sponsor. I felt that it might be more  
2 appropriate to have a sunset on the fuel costs  
3 to just see, during the next year or two, what  
4 happens with fuel costs rather than put in  
5 into permanent provision.

6 And I asked for that because of the  
7 sensitivity in real property taxes that we  
8 have when we go to contingency budget.  
9 Sometimes people don't understand all of the  
10 other provisions that we put in that are  
11 outside of the growth in the index.

12 But it is a difficult time for  
13 school districts, and maybe we will revisit  
14 this issue at another time and make it more  
15 appropriate in terms of what is going on.

16 I vote in the affirmative.

17 THE PRESIDENT: You will be  
18 recorded as voting in the affirmative,  
19 Senator LaValle.

20 The Secretary will announce the  
21 results.

22 THE SECRETARY: Ayes, 46.

23 THE PRESIDENT: The bill is  
24 passed.

25 THE SECRETARY: Calendar Number

1 245, by Senator Marchi, Senate Print 6536, an  
2 act to amend Chapter 759 of the Laws of 1973  
3 relating to transfer.

4 THE PRESIDENT: Read the last  
5 section.

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

8 THE PRESIDENT: Call the roll.  
9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 47.

11 THE PRESIDENT: The bill is  
12 passed.

13 THE SECRETARY: Calendar Number  
14 273, substituted earlier today by Member of  
15 the Assembly Tokasz, Assembly Print Number  
16 9529, an act to amend the Erie County Tax Law,  
17 in relation to the receipt of partial payment.

18 THE PRESIDENT: Read the last  
19 section.

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

22 THE PRESIDENT: Call the roll.  
23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes, 50.

25 THE PRESIDENT: The bill is

1 passed.

2 THE SECRETARY: Calendar Number  
3 282, by Senator Spano, Senate Print 2893B, an  
4 act to amend the State Finance Law, in  
5 relation to damages.

6 THE PRESIDENT: Read the last  
7 section.

8 THE SECRETARY: Section 2. This  
9 act shall take effect on the 180th day.

10 THE PRESIDENT: Call the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 49. Nays,  
13 1. Senator Meier recorded in the negative.

14 THE PRESIDENT: The bill is  
15 passed.

16 Senator Skelos, that completes the  
17 noncontroversial reading of the calendar.

18 SENATOR SKELOS: Thank you, Madam  
19 President.

20 There will be an immediate meeting  
21 of the Investigations Committee in the  
22 Majority Conference Room. I believe they are  
23 going to take up one nomination. Then there  
24 will be a meeting of the Finance Committee to  
25 take up that nomination. Then we will come

1 back and have a vote on several nominations,  
2 and then we will adjourn.

3 So there will be an immediate  
4 meeting of the Investigations Committee in the  
5 Majority Conference Room.

6 THE PRESIDENT: There will be an  
7 immediate meeting of the Investigations and  
8 the Finance Committees, sequentially, in the  
9 Majority Conference Room.

10 The Senate stands at ease.

11 (Whereupon, the Senate stood at  
12 ease at 11:22 a.m.)

13 ACTING PRESIDENT FUSCHILLO:  
14 Senator Skelos.

15 SENATOR SKELOS: Mr. President,  
16 just as a reminder, there will be an immediate  
17 meeting of the Finance Committee in the  
18 Majority Conference Room.

19 ACTING PRESIDENT FUSCHILLO:  
20 There will be an immediate meeting of the  
21 Finance Committee in the Majority Conference  
22 Room.

23 The Senate will stand at ease.

24 (Whereupon, the Senate reconvened  
25 at 12:17 p.m.)

1 SENATOR SPANO: Madam President.

2 THE PRESIDENT: Senator Spano.

3 SENATOR SPANO: Can we return to  
4 motions and resolutions.

5 I understand there's a resolution  
6 at the desk by Senator Ada Smith. Can you  
7 please read the title and ask for its  
8 immediate adoption.

9 THE PRESIDENT: The Secretary  
10 will read.

11 THE SECRETARY: By Senator A.  
12 Smith, Legislative Resolution Number 3562,  
13 mourning the death of Charles A. Pringle, Jr.,  
14 distinguished citizen and devoted member of  
15 his community.

16 THE PRESIDENT: All in favor of  
17 the resolution please signify by saying aye.

18 (Response of "Aye.")

19 THE PRESIDENT: Opposed, nay.

20 (No response.)

21 THE PRESIDENT: The resolution is  
22 adopted.

23 Senator Robach.

24 SENATOR ROBACH: Yes, Madam  
25 President. I wish to call up my bill, Senate

1 Print Number 3331, which is at the desk.

2 THE PRESIDENT: The Secretary  
3 will read.

4 THE SECRETARY: Calendar Number  
5 109, by Senator Robach, Senate Print 3331, an  
6 act to amend the Civil Service Law.

7 THE PRESIDENT: Senator Robach.

8 SENATOR ROBACH: Madam President,  
9 I now move to reconsider the vote by which the  
10 bill was passed and ask that the bill be  
11 restored to the order of third reading,  
12 please.

13 THE PRESIDENT: The Secretary  
14 will call the roll upon reconsideration.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes, 50.

17 THE PRESIDENT: So ordered.

18 Senator Spano.

19 SENATOR SPANO: Madam President,  
20 can we please return to reports of standing  
21 committees. I understand there's a report of  
22 the Finance Committee at the desk.

23 THE PRESIDENT: The Secretary  
24 will read.

25 THE SECRETARY: Senator Johnson,

1 from the Committee on Finance, reports the  
2 following nominations.

3 As Commissioner of Agriculture and  
4 Markets, Patrick H. Brennan, of Deansboro.

5 THE PRESIDENT: Senator Spano.

6 SENATOR SPANO: Thank you, Madam  
7 President.

8 The Senate Committee on  
9 Investigations had the opportunity to have two  
10 hearings, as a matter of fact, two meetings  
11 considering the appointment of Dan Boyle as a  
12 member of the -- and while that was  
13 interesting, we are now considering  
14 appointment of Mr. Brennan.

15 (Laughter.)

16 SENATOR SPANO: And I will now  
17 yield the floor to Senator Maziarz.

18 THE PRESIDENT: Senator Maziarz.

19 SENATOR MAZIARZ: Well, Madam  
20 President, I am going to defer to my  
21 colleague, the chair of the Senate Ag  
22 Committee, Senator Young.

23 THE PRESIDENT: Senator Young.

24 SENATOR YOUNG: Thank you very  
25 much.

1                   As chairperson of the Senate Ag  
2                   Committee, I'm very proud to rise today in  
3                   support of the appointment of Patrick H.  
4                   Brennan as the Commissioner of the New York  
5                   State Department of Agriculture and Markets.

6                   Agriculture is still the number-one  
7                   industry in New York State, so this is a  
8                   critically important position.

9                   Mr. Brennan has served in a  
10                  multitude of roles that are very relevant to  
11                  this appointment today. Number one is that he  
12                  grew up on a dairy farm in Paris, which  
13                  actually is in Oneida County. And what's  
14                  interesting is that he still is very involved  
15                  directly in farming issues. As a matter of  
16                  fact, every weekend he helps out the family  
17                  farm by still milking the cows.

18                  So Mr. Brennan and I actually have  
19                  a little friendly contest going. We will be  
20                  having a cow-milking contest, probably at the  
21                  State Fair later this year.

22                  And Senator Parker says that he's  
23                  betting on me, Mr. Brennan, so . . .

24                  But Mr. Brennan previously worked  
25                  at the Department of Agriculture and Markets

1 from 1998 to 2001. During his first year, he  
2 served as the Environmental Bond Act  
3 coordinator and agriculture policy analyst,  
4 where he was responsible for the  
5 administration also of the New York Farmland  
6 Protection Program and the Agricultural  
7 Non-Point Source Pollution Abatement and  
8 Control Program.

9 He was promoted to special  
10 assistant for agricultural economic  
11 development, where he was instrumental in  
12 creating Grow New York, which has been a very  
13 successful program. He also has served as a  
14 staff member to my esteemed colleague, Senator  
15 Raymond Meier, and as a field advisor for the  
16 New York State Farm Bureau.

17 Prior to being named acting  
18 commissioner, he served as the state director  
19 of the USDA Rural Development from 2001 to  
20 2005, where his duties included oversight of a  
21 \$200 million budget to create economic  
22 development opportunities.

23 And I have to personally speak at  
24 this point, because he did a great job in that  
25 role. I live in a very rural community, and

1           anytime that I called Mr. Brennan to help with  
2           affordable housing or critical community  
3           projects -- such as water, for example -- he  
4           was always there and very accessible. And I  
5           anticipate that he will continue that method  
6           in his new role as Commissioner of Ag and  
7           Markets.

8                         Mr. Brennan's extensive  
9           professional and personal experience will  
10          undoubtedly be a tremendous asset to the  
11          New York State farming industry.

12                        He is joined today by several  
13          important people: his wife, Sheri; his sons,  
14          Joshua and Eddie; his father, Edwin; his  
15          brother, Matt, and sister-in-law, Jane; his  
16          uncles, Norman and Vincent; his aunt, Mary;  
17          his cousin, Kevin; his in-laws, Dennis and  
18          Nancy Salm. And he is also joined by several  
19          friends who are great supporters.

20                        So it's my pleasure to nominate  
21          Patrick H. Brennan as Commissioner of the  
22          Department of Agriculture and Markets in  
23          New York State.

24                                 THE PRESIDENT:         Senator Meier.

25                                 SENATOR MEIER:         Thank you, Madam

1 President.

2 It is indeed a privilege to second  
3 the nomination for Senate confirmation of my  
4 good friend Pat Brennan.

5 Now, initially, let me clear up the  
6 source of Senator Spano's confusion about this  
7 being a nomination to the State Liquor  
8 Authority. What I told you was he and I have  
9 a beer together occasionally, and that's what  
10 you were thinking about.

11 (Laughter.)

12 SENATOR MEIER: I really mean it  
13 when I say that Pat Brennan is a friend. And  
14 I think over the time that he has been  
15 involved in agriculture and in agriculture  
16 policy, whether it's been at the Farm Bureau,  
17 the Department of Agriculture and Markets, or  
18 in his most recent tenure as the New York  
19 State director for the U.S. Department of Ag  
20 and Rural Development, he's demonstrated that  
21 he is a friend of farmers, he's a friend of  
22 rural New York.

23 I have known Pat Brennan for a long  
24 time, and I was able to observe him when he  
25 worked on my staff, of the way he reacts in a

1 very creative way to problems.

2 Early in my tenure in the Senate,  
3 the part of New York that Senator Wright and I  
4 represent was hit by a crippling ice storm.  
5 It knocked down power in some of those  
6 communities for literally more than 30 days at  
7 a time, and Pat Brennan, on my staff, quickly  
8 came to us and said: "One of the problems the  
9 farmers are going to have is how do you milk  
10 the cows. That's just not of economic  
11 consequence immediately to these farmers, it's  
12 of consequence to the health and well-being of  
13 the cows if they're not milked."

14 Pat put a program together  
15 immediately. We collected generators that  
16 were volunteered by farmers not impacted,  
17 mounted them on trucks, got them into a  
18 program of circulating from farm to farm.  
19 That's the kind of guy Pat Brennan is. He  
20 acts and he solves problems.

21 Now, Pat has been telling people --  
22 your dad is up there -- Mr. Brennan, that he  
23 still milks cows. We didn't put him under  
24 oath, but we are going to put you under oath  
25 later and ask you if that's really true. But

1           that's one of the ways he sold himself.

2                       Pat does, though, still participate  
3           at the family farm, and that keeps him  
4           well-grounded.

5                       But one of the great challenges  
6           that he's prepared to address and that we need  
7           to be mindful of in this chamber and in this  
8           state government is that agriculture in this  
9           state is changing, along with many other  
10          aspects of our economy.

11                      And while dairy and various crops,  
12          be they fruit or vegetables or our  
13          wine-growing regions, all are going to remain  
14          very important, Pat Brennan is the kind of  
15          forward-thinking guy who sees the relationship  
16          between a 21st-century economy and one of our  
17          oldest industries, agriculture.

18                      That's going to fit nicely with  
19          some of the initiatives our Governor has  
20          talked about, about moving forward into a  
21          21st-century economy, about alternative forms  
22          of fuel and energy and the role that our  
23          oldest industry, agriculture, is going to play  
24          in fueling the businesses and the economy of  
25          the 21st century.

1 I am very proud that Pat Brennan is  
2 a constituent, a former staff member, a  
3 friend. And I think New York's farmers and  
4 New Yorkers are going to be very proud to have  
5 Pat as the Commissioner of Ag and Markets.

6 Congratulations, Pat. You deserve  
7 this. You're a guy who never forgot where he  
8 came from, and you're going to do a great job.

9 THE PRESIDENT: Senator Maziarz.

10 SENATOR MAZIARZ: Thank you very  
11 much, Madam President.

12 I rise to join Senator Young and  
13 Senator Meier in their support of Patrick  
14 Brennan as the designee for Commissioner of Ag  
15 and Markets.

16 I haven't known Patrick as long as  
17 Senator Meier on a personal basis, but I can  
18 tell you that on a professional basis, Patrick  
19 has interacted with my office.

20 And I was always impressed with the  
21 fact that whenever there was a particular  
22 event or issue, regardless of how  
23 confrontational it was or controversial it  
24 was, Madam President, that when we would  
25 contact the USDA and ask for someone to come

1 out to meet with a group of residents, they  
2 didn't send out a staff person or somebody who  
3 couldn't get answers, Patrick Brennan showed  
4 up himself. And it was regardless of day of  
5 the week, time of the day, or where it was, in  
6 some very rural and remote parts of New York.

7 And I think the thing that  
8 impresses me the most is that -- and I know  
9 that those of us who represent some of the  
10 rural areas of New York State know that  
11 because of the work that Patrick did with the  
12 USDA, that not only healthcare but emergency  
13 services -- fire companies, volunteer fire  
14 companies, volunteer EMS organizations -- have  
15 better equipment and better housing today  
16 because of the work that Patrick has done.

17 And Senator Meier mentioned about  
18 the things like the water lines and housing  
19 for senior citizens in rural areas, all very  
20 important components of life in rural New  
21 York. And they're better in upstate New York  
22 in those rural areas because of the work that  
23 Patrick did with the U.S. Department of  
24 Agriculture.

25 Patrick, congratulations. It's

1           certainly a proud moment for you, I know, and  
2           even more so for your dad, who's here, and  
3           your in-laws and other family members.

4                         Thank you, Madam President.

5                         THE PRESIDENT:        Senator Nozzolio.

6                         SENATOR NOZZOLIO:       Thank you,  
7           Madam President.   On the nomination.

8                         I rise to echo my support.   As  
9           Senator Young and Senator Meier and Senator  
10          Maziarz indicated, this certainly is a very  
11          personally impressive nomination, one that is  
12          uniquely qualified to take New York  
13          agriculture well into the 21st century.

14                        The issues that Senator Meier  
15          mentioned, particularly regarding making the  
16          strongest industry we have in New York State  
17          even stronger, is something that I wish to  
18          echo and expand upon.

19                        We are indeed entering a new age of  
20          American agriculture.   We are entering a new  
21          age of American business, and agriculture is  
22          very much a part of that age, where our  
23          competitive marketplace is no longer the  
24          farmstand next door or even crops from other  
25          regions of the country, but we truly are in a

1 global marketplace.

2 And that particularly in areas of  
3 research and development, New York agriculture  
4 is poised to stand strong and become stronger  
5 under direction and leadership. And I'm very  
6 confident that the new Commissioner of  
7 Agriculture, himself grounded in agriculture  
8 but experiencing a great deal of agriculture  
9 research and development, knows how to pivot  
10 this into the next century.

11 New York agriculture faces many,  
12 many issues -- growing, developing, making  
13 sure farms prosper. That is an issue this  
14 conference is well aware of, and under Senator  
15 Bruno and Senator Young we are trying to  
16 develop policies that make New York  
17 agriculture flourish.

18 But what I'd like to see occur more  
19 is the research components of New York  
20 agriculture get greater and greater attention.  
21 What was old can be new. And the focus on our  
22 land-grant institution at Cornell University,  
23 with its College of Agriculture, its School of  
24 Veterinary Medicine, and its Experiment  
25 Station of applied research in Geneva,

1 New York, are ways that New York agriculture  
2 can set itself apart, has set itself apart,  
3 has created already a worldwide reputation.  
4 Now we want to see that reputation grow and  
5 become stronger with the addition of new jobs.

6 Governor Pataki has taken a very  
7 personal interest in this development. As one  
8 who grew up on a farm himself, or his father  
9 certainly was involved in farming for years,  
10 Governor Pataki has supported the New York  
11 State Experiment Station and land-grant  
12 college in developing applied research.  
13 Better tomatoes grown in New York State,  
14 apples no longer grown on trees but grown in  
15 trellised environments.

16 That we have our grape industry,  
17 where in the Central Finger Lakes and Long  
18 Island, in particular, hundreds of wineries  
19 exist today that did not even exist 10 years  
20 ago, 20 years ago.

21 This industry needs additional  
22 nurturing, and that is recognized particularly  
23 at the Experiment Station in Geneva, where the  
24 United States Department of Agriculture is  
25 placing a grape genetics laboratory on the

1 campus of what was created by Governor Pataki,  
2 the New York State Cornell Ag and Food  
3 Technology Park, a place where farming is not  
4 going to be growing crops but growing  
5 sophisticated research and development jobs  
6 through consistent and targeted agriculture  
7 research. The Governor has been there on a  
8 number of occasions.

9 And that I, for one, hope that our  
10 new commissioner will do all he can to ensure  
11 that what we have growing can be further  
12 nurtured. Being grounded in agriculture as he  
13 is, I know that the creation of a Center of  
14 Excellence of Agriculture and Food Technology  
15 would be a wonderful component of the already  
16 expanded Center for Excellence program, from  
17 bioinformatics in Buffalo to computer science  
18 in Albany, to the development of environmental  
19 research in Syracuse, and infotonics in  
20 Rochester, having an additional focus on  
21 New York agriculture, enhancing what we have  
22 here puts us in rising our creative class and  
23 competing with a world economy, making  
24 New York well-poised for success in the 21st  
25 century.

1                   To you, Commissioner, I  
2                   congratulate you. Your efforts here have been  
3                   nothing but exemplary. That we have great  
4                   confidence in your background in agriculture,  
5                   your time spent with us, working with Senator  
6                   Meier in the State Senate.

7                   That you are uniquely qualified for  
8                   this position, and I appreciate all you have  
9                   done to be responsive and look forward to  
10                  working with you in the months ahead.

11                  Thank you, Madam President. I  
12                  support strongly the nomination.

13                  THE PRESIDENT:       Thank you,  
14                  Senator Nozzolio.

15                  Senator Wright.

16                  SENATOR WRIGHT:       Thank you, Madam  
17                  President. I too rise to join with my  
18                  colleagues in seconding and supporting the  
19                  nomination of Pat Brennan.

20                  I know his father is with him  
21                  today. And these kind of accolades are the  
22                  kind of recognition that your mother is very  
23                  proud of and your father wonders who you're  
24                  talking about.

25                  (Laughter.)

1                   SENATOR WRIGHT:     Patrick, we're  
2                   proud to be here with you today.  He is an  
3                   individual who, as well-documented by his  
4                   resume, has demonstrated that he is  
5                   well-prepared to be the commissioner of the  
6                   number-one industry in this state.

7                   We're very prepared to confirm him  
8                   to that job because of the experience that  
9                   we've had working with Pat and the firsthand  
10                  experience we've had with him.  At one point  
11                  in time, he was spending so much time in my  
12                  district I honestly thought he was a  
13                  constituent for a while.

14                 That's the kind of personal,  
15                 hands-on response that, as a representative of  
16                 the federal government, this man brought to  
17                 his job.  I'm fully confident he will bring  
18                 that same kind of attention and dedication to  
19                 being commissioner here in this state.

20                 He has worked in the department, he  
21                 understands what its focus and obligations are  
22                 and should be.  He has worked for and with the  
23                 Legislature.  That's important as we continue  
24                 forward on what is clearly a priority for the  
25                 New York State Senate, its commitment to

1 agriculture.

2 And I would only reinforce all of  
3 the initiatives that Senator Nozzolio  
4 articulated in terms of our commitment to  
5 further research, new technologies, applying  
6 those technologies to ensuring that our  
7 agricultural industry is highly competitive  
8 and very diverse.

9 I believe Pat Brennan is the  
10 individual to lead the department in achieving  
11 just those goals. I look forward to voting  
12 for his confirmation.

13 Patrick, the best to you and all of  
14 your family today.

15 Thank you, Madam President.

16 THE PRESIDENT: Senator Valesky.

17 SENATOR VALESKY: Thank you,  
18 Madam President.

19 I rise today to join with my  
20 colleagues from the other side of the aisle in  
21 support of the nomination of Patrick Brennan  
22 as Commission of the Department of Agriculture  
23 and Markets.

24 I have not had the opportunity to  
25 know and work with Patrick for very long. The

1 first time that we had a chance to speak was  
2 shortly after he was named acting commissioner  
3 of the department.

4 But I want all of the members here  
5 to know that in the few chances that we have  
6 had to talk and discuss issues that are  
7 important to agriculture, that this is a man  
8 who is not only intelligent but an articulate  
9 spokesperson for farmers in New York State  
10 and, perhaps most importantly, you find very  
11 early in a conversation with Patrick, you see  
12 his passion for agriculture, for working on  
13 behalf of the farmers of New York State. And  
14 I am absolutely convinced that he will serve  
15 farmers very, very well in his role as  
16 commissioner.

17 Patrick, congratulations. I look  
18 forward to working with you over these next  
19 several months. Thank you.

20 THE PRESIDENT: All those in  
21 favor of the nomination of Patrick H.  
22 Brennan -- Senator Larkin, do you wish to be  
23 heard?

24 SENATOR LARKIN: Thank you, Madam  
25 President.

1 THE PRESIDENT: By all means.

2 SENATOR LARKIN: You know, in the  
3 past 18 months we've welcomed Patrick to our  
4 district about five times on some very, very  
5 major issues -- major issues that involve West  
6 Point, small communities that were dried out  
7 for years. Patrick took the time to come down  
8 and laid out the plans of how they could be  
9 done.

10 One issue was how do we get the  
11 funds. Small municipalities -- as you know  
12 because of your task force, Madam President --  
13 don't have all the resources to do it. Pat  
14 brought the technical people with him. We  
15 worked with the county, we worked with both  
16 counties, we worked with West Point. And  
17 Patrick even got a chance to go out and see  
18 why an onion farmer wanted to change and  
19 become a "carpet man," meaning grass.

20 Patrick was so engrossed in what he  
21 was doing, and the farm community and the  
22 local government community were so happy to  
23 have somebody come down, especially from a  
24 federal agency and work with them hand in  
25 hand. Patrick knew what their troubles were,

1 he knew what their problems were; he also knew  
2 how to solve it.

3 You know, Patrick is a doer. You  
4 know, he's very fortunate, he's got the  
5 Brennan family in my district -- right, Pat?  
6 They watch me as I watch Patrick.

7 Patrick came back time and time  
8 again, communicated with those individuals so  
9 that they were fully aware of what had to be  
10 done, how to do it. And when he brought the  
11 check to Goshen that day, people were so  
12 surprised they even invited the Times  
13 Herald-Record. Patrick, they don't even come  
14 for George Pataki. So you were special.

15 But Patrick did the job that had  
16 taken ten years to get an adequate water  
17 supply for a community of about 800 people.  
18 Patrick dogged it, he made sure the federals  
19 got in it, locals got into it. And, Patrick,  
20 they're very proud. They're proud because  
21 they see in you as a government official who  
22 knows what the problem is, how to address it,  
23 and how to resolve the problem for those you  
24 represent.

25 Patrick, I'm honored to know you,

1 your family, and I've got to watch out for  
2 Vince.

3 THE PRESIDENT: Now, the question  
4 is on the nomination of Pat Brennan as  
5 Commissioner of Agriculture and Markets. All  
6 in favor please signify by saying aye.

7 (Response of "Aye.")

8 THE PRESIDENT: Opposed, nay.

9 (No response.)

10 THE PRESIDENT: The nominee is  
11 hereby confirmed.

12 Congratulations, Commissioner, and  
13 best wishes for success.

14 (Applause.)

15 THE PRESIDENT: The Secretary  
16 will continue to read.

17 THE SECRETARY: As Director of  
18 the Division of State Probation and  
19 Correctional Alternatives, Robert M.  
20 Maccarone, Esquire, of White Plains.

21 THE PRESIDENT: Senator Spano.

22 SENATOR SPANO: I yield to  
23 Senator Nozzolio.

24 THE PRESIDENT: Senator Nozzolio.

25 SENATOR NOZZOLIO: Thank you,

1 Madam President.

2 I rise to place in nomination the  
3 name of Robert MacCarone, of White Plains,  
4 New York, to serve as Director of the Division  
5 of State Probation and Correctional  
6 Alternatives.

7 Bob MacCarone is uniquely qualified  
8 for this position, has worked within the  
9 department, has had a diversity of experience,  
10 has impressed the Committee on Crime Victims,  
11 Crime and Corrections as well as the Senate  
12 Finance Committee with his understanding of  
13 probation and other issues.

14 This issue becomes -- probation  
15 particularly becomes so critical as this  
16 Legislature is dealing more and more with  
17 criminality issues relative to  
18 post-incarceration. And that his expertise is  
19 invaluable to meet the challenges that we are  
20 all going to face in trying to make New York  
21 State a safer place to live.

22 Madam President, it's an excellent  
23 nomination.

24 And I turn my comments back to  
25 Senator Spano.

1 THE PRESIDENT: Senator Spano.

2 SENATOR SPANO: Thank you, Madam  
3 President.

4 It's my pleasure to join with  
5 Senator Nozzolio in seconding the nomination  
6 of Bob Maccarone.

7 I've known Bob for many years in  
8 Westchester County. And as was stated by  
9 Senator Nozzolio, he's uniquely qualified to  
10 serve as Director of the State Probation and  
11 Correctional Alternatives agency.

12 We will -- when you look at his  
13 role that he played in criminal justice  
14 services in Westchester County, it's no secret  
15 why the Governor would make the selection of  
16 Bob Maccarone.

17 And it's my pleasure to second the  
18 nomination of someone who is, in addition to  
19 being a great friend and Westchester resident,  
20 someone who is uniquely qualified to continue  
21 to protect the safety and security of our  
22 neighborhoods across New York State as the  
23 director.

24 THE PRESIDENT: Senator  
25 Oppenheimer.

1                   SENATOR OPPENHEIMER:     Well, also  
2     being a Westchester resident, I know Bob very,  
3     very well for many -- for a couple decades, at  
4     least. And also he resides in White Plains,  
5     and that's in my Senate district.

6                   And we've heard a little bit about  
7     what he has done in Westchester, where he was  
8     in the DA's office doing a brilliant job, and  
9     then he went on to Criminal Justice, also  
10    doing a brilliant job. And it's because of  
11    the kind of job that he consistently does that  
12    he keeps seeming to move up the ladder.

13                  But I also know him as a resident  
14    of his community. And he has been an  
15    attentive citizen, he has been involved in the  
16    schools, involved with his kids, involved with  
17    the community. And so in addition to being  
18    excellent at his work, he has also been an  
19    excellent and spirited member of his  
20    community.

21                  And so I'm very, very happy to be  
22    seconding his nomination and think this is a  
23    wonderful appointment.

24                  THE PRESIDENT:        The question now  
25    is on the nomination of Robert M. MacCarone,

1 Esquire, as Director of the Division of State  
2 Probation and Correctional Alternatives. All  
3 in favor please signify by saying aye.

4 (Response of "Aye.")

5 THE PRESIDENT: Opposed, nay.

6 (No response.)

7 THE PRESIDENT: The nominee is  
8 hereby confirmed.

9 Congratulations, Director, and best  
10 wishes for success.

11 (Applause.)

12 THE PRESIDENT: The Secretary  
13 will continue to read.

14 THE SECRETARY: As a member of  
15 the State Liquor Authority, Daniel B. Boyle,  
16 of Syracuse.

17 THE PRESIDENT: Senator Spano.

18 SENATOR SPANO: Thank you, Madam  
19 President.

20 The Investigations Committee, at  
21 our meeting today, met to consider the  
22 nomination of Daniel B. Boyle. And he was  
23 unanimously approved to the Senate Finance  
24 Committee and then, of course, out to the  
25 floor.

1                   A number of issues were raised both  
2                   at the Investigations Committee as well as the  
3                   Finance Committee hearing about some of the  
4                   frustrations of the State Liquor Authority, to  
5                   the effect that I thought maybe Mr. Boyle was  
6                   maybe going to consider leaving.

7                   But when we heard many of the  
8                   issues that were raised, both from Senator  
9                   Padavan, from Queens, and Senator Stachowski,  
10                  from Buffalo, and across this state, we  
11                  realized that there's a necessity for us to  
12                  take a real close look at some of the policies  
13                  and procedures of the SLA.

14                  And as such, the Investigations  
15                  Committee will be conducting hearings over the  
16                  next several weeks, in New York City and  
17                  Buffalo and in Westchester, looking at the  
18                  issue of the 500-foot rule, the issue of  
19                  density, as well as the issue of the  
20                  unlicensed premises that are being operated in  
21                  our neighborhoods and communities across this  
22                  state, violating every rule and regulation  
23                  including the no-smoking rule, our tax laws,  
24                  underage drinking, and so many others. And so  
25                  we have a real struggle as we look at this

1 agency.

2 No one is more uniquely qualified,  
3 in my opinion, to serve as the chairman of the  
4 SLA than someone who has 32 years of law  
5 enforcement experiences, having most  
6 immediately served as the chief of the  
7 Glenville Police Department, utilizing that  
8 32 years of law enforcement in a way that will  
9 respect the needs of the communities all  
10 across New York State and with the different  
11 nature of the problems that exist all across  
12 New York State.

13 So it will be my pleasure as the  
14 chairman of the Investigations Committee to  
15 work closely with Dan Boyle and say that the  
16 Governor has presented us, once again, with  
17 someone who has the qualifications to be the  
18 head of that agency, to address the concerns  
19 that have been raised by the members of this  
20 house, and to work closely with us as we  
21 continue with the struggles of the agency as  
22 it relates to the enforcement of the State  
23 Liquor Authority rules and regulations all  
24 across this state.

25 I am -- it's my pleasure to speak

1 in support of the nomination of Dan Boyle.

2 THE PRESIDENT: Senator Volker.

3 SENATOR VOLKER: Madam President,  
4 I just want to say -- and I want to thank the  
5 nominee for, after the reception he got in our  
6 Finance Committee -- and actually, it was  
7 nothing personal, as you know. You got the  
8 wrath of Padavan, which is enough, but then  
9 Senator LaValle accused your agency of  
10 swooping down on Long Island.

11 I said, you know -- I was wondering  
12 if you were going to say "I don't know if I  
13 want this."

14 Now, I think, frankly, that as a  
15 law enforcement -- and we know each other only  
16 casually -- as a law enforcement person, I'm  
17 sure you'll do a fine job. As somebody who is  
18 pretty close to the SLA said, there's nothing  
19 wrong with the SLA that about 2,000 additional  
20 bodies wouldn't take care of. But that's  
21 another issue.

22 I do want to say, though, we're  
23 glad to have you on board and I wish you the  
24 best of luck.

25 THE PRESIDENT: Senator Ada

1 Smith.

2 SENATOR ADA SMITH: Thank you,  
3 Madam President.

4 I too rise to second the nomination  
5 of Mr. Daniel Boyle. After considerable  
6 questions and airing my viewpoint, which in  
7 this instance happened to be the same as  
8 Senator Padavan's -- I know that's a little  
9 strange in this chamber.

10 However, he answered the questions,  
11 and I believe that he will have a fresh start  
12 at the SLA and he will understand the problems  
13 that we have in the City of New York and he  
14 will definitely set out to do something about  
15 it.

16 And I'm certain that he will be  
17 back meeting with us and trying to rectify  
18 those issues that we brought to the forefront.

19 I wish him all the best, and I  
20 commend the Governor for this nomination.

21 THE PRESIDENT: Senator Connor.

22 SENATOR CONNOR: Thank you, Madam  
23 President.

24 Not being on the Finance or  
25 Investigations Committee, I really didn't have

1 chance to question the nominee. I did talk to  
2 Senator Padavan yesterday about my concerns,  
3 and I think he raised them.

4 In my district, neighborhoods like  
5 Soho, the Lower East Side, the East Village,  
6 Williamsburg, in Brooklyn, the south side of  
7 Williamsburg -- or the north side of  
8 Williamsburg, I should say, and other  
9 neighborhoods, we've had this ongoing problem  
10 of just the absolute overconcentration of  
11 clubs and bars.

12 Now, I understand that people in  
13 the nightlife industry, it gets desirable to  
14 have a long strip of block after block of  
15 bars, because it draws big crowds who barhop  
16 and patronize various establishments. So  
17 people who want to open a bar want to be in  
18 the hot spot.

19 The problem is, Madam President,  
20 these neighborhoods are residential  
21 neighborhoods. These are not commercial  
22 strips. They're commercial strips, but above  
23 the bars, next door to the bars are  
24 apartments, people live there.

25 We literally have received hundreds

1 of complaints, between my office, the Assembly  
2 member's office, the Council member's office  
3 and community boards, hundreds of complaints  
4 about noise. I mean, these bars and clubs are  
5 open till 4:00 a.m. And this boisterous  
6 barhopping and on the streets at 4:00 a.m. is  
7 quite disturbing to the neighborhood.

8 There are actually blocks there  
9 that have up to 17 licensed premises on one  
10 block, as you go down the block. And that  
11 literally creates thousands of bar hoppers --  
12 not just on Friday and Saturday nights, but on  
13 weeknights.

14 And the community boards have voted  
15 down, in their advisory capacity,  
16 applications. Yet the SLA routinely,  
17 routinely grants licenses to premises that are  
18 in violation of the 500-foot rule, which I  
19 believe Senator Padavan sponsored a number of  
20 years ago. And that provides that you shall  
21 not grant a permit to an establishment within  
22 a 500-foot radius of another licensed  
23 premises.

24 There's an exception in there --  
25 except when it's in the public interest. And

1 obviously that's in there because a large  
2 hotel development in a commercial area or  
3 whatever, you don't want to stop someone from  
4 building a hotel because there's a bar on the  
5 opposite corner within 500 feet.

6 But what the SLA has done is they  
7 consistently find that granting the permit to  
8 the bar owner, the license, is in the public  
9 interest. And the criteria they use, you  
10 know, they'll say, Well, he's going to  
11 create -- he's going to employ 12 people and  
12 invest all this money, and therefore job  
13 creation, oh, it's in the public interest.

14 That's not what was meant in the  
15 legislative intent of that statute. Indeed,  
16 the Soho Alliance, together with a lot of  
17 other people -- and I think Senator Padavan  
18 offered an affidavit in the case -- recently  
19 won a case upholding the principle of the  
20 500-foot exclusion.

21 The other thing they do in Lower  
22 Manhattan routinely is they waive the 500-foot  
23 ban against a premises within 500 feet of a  
24 school or a church. I know that in a dense  
25 Lower Manhattan/Lower East Side location, it

1           may be harder to find locations that are that  
2           far away from a school or a church. But the  
3           result has been just this overconcentration.

4                         Now, together with a lot of my  
5           fellow elected officials from New York City,  
6           we had written to the Governor and urged that  
7           he appoint someone from New York City to the  
8           SLA. That wasn't a city versus the rest of  
9           the state outcry, it was more out of  
10          frustration to get someone at the SLA to pay  
11          attention to these concerns.

12                        Conditions there, conditions in  
13          downtown Brooklyn, conditions in the north  
14          side of Williamsburg, conditions in the Lower  
15          East Side, the East Village, Soho are just  
16          quite different from what you'll find  
17          elsewhere in the state. There is a  
18          concentration of, yes, commercial premises  
19          that may be a ripe target for someone who  
20          wants to open a bar, but they are also  
21          intermixed with a high concentration of  
22          residents who live above the commercial  
23          premises, next door to them, across the street  
24          from them.

25                        So our feeling was that if we had

1 someone who lived in the city -- you know, you  
2 can't live in New York City and visit any of  
3 these neighborhoods and not -- you know,  
4 forget the statistics; you see the problem.  
5 You see the barhoppers spilling over into the  
6 streets because there isn't enough room on the  
7 sidewalks for the traffic as they go from bar  
8 to bar to bar, where you have 12, 15, 20 bars  
9 on a block, you get to the next block, there's  
10 another dozen bars.

11 We want the SLA to enforce the law.  
12 And I know this nominee was questioned by my  
13 colleagues in the committee meetings. I  
14 certainly accept his good-faith commitment to  
15 look into this problem. And I certainly  
16 respect the fact that Senator Spano will have  
17 these hearings. I look forward to them. When  
18 you have them in New York City, it will be a  
19 long day.

20 Madam President, my colleague  
21 Senator Spano will spend a long day because a  
22 community group, no official sponsorship,  
23 no -- actually, the community board was  
24 against it because they were planning their  
25 own event. Just literally a bunch of people

1 in the community circulated flyers to hold a  
2 meeting recently in my district, and 300  
3 people showed up -- 300 people in one little  
4 part of a neighborhood -- about this topic,  
5 too many bars. So it's a serious problem.

6 There are responsible nightlife  
7 operators. Obviously, it's important  
8 economically to the City of New York. But  
9 there are plenty who aren't responsible. And  
10 even responsible owners have a difficult time  
11 policing the neighborhood when there's such an  
12 overconcentration of presences in just a few  
13 blocks.

14 So, Madam President, I am going to  
15 support the nominee and take my colleagues'  
16 assurances that he and the SLA are committed  
17 to looking into this problem, and look forward  
18 to the hearings that Senator Spano is going to  
19 sponsor.

20 Thank you.

21 THE PRESIDENT: Senator  
22 Stachowski.

23 SENATOR STACHOWSKI: Very  
24 briefly, Madam President. I also rise to  
25 support this nominee.

1 I, with Senator Spano, sat through  
2 both Investigations meetings. I also had the  
3 opportunity to pass on some of the concerns of  
4 our conference with a private conversation  
5 with Mr. Boyle. And I believe that he's shown  
6 an interest in the concerns brought up by all  
7 of my colleagues. He also showed an interest  
8 when Senator Schneiderman passed a community  
9 board's resolution over to him.

10 And I believe that he'll look into  
11 the many problems that were stated not only on  
12 the floor but also in the different committee  
13 meetings.

14 And I think that his police  
15 background and his general condition and work  
16 ethic will add to the SLA and make it a much  
17 better, much better functioning organization  
18 and department than it currently is, and  
19 probably be much more responsive to the needs  
20 and the concerns of the people in our various  
21 communities.

22 So I'm glad to have the opportunity  
23 to support this nominee.

24 THE PRESIDENT: Senator Malcolm  
25 Smith.

1                   SENATOR MALCOLM SMITH:     Thank you  
2     very much, Madam President.   I rise just to  
3     support the nominee.

4                   But clearly, I just want you to  
5     understand that the comments that you've  
6     heard, as you heard it in Finance as well,  
7     were not directed towards yourself, they were  
8     actually directed toward the agency.   You  
9     heard the level of frustration.

10                  And quite honestly, we are happy  
11     about your law enforcement background.   I hope  
12     that you will use that to the fullest to make  
13     sure that we do have the kind of responsible  
14     agency that can do what we think should be  
15     fair in all of our neighborhoods.

16                  So we look forward to working with  
17     you.   I'm happy about your nomination.   And I  
18     look forward to your actually using that law  
19     enforcement background to do what we know you  
20     can do.

21                  Thank you very much.

22                  THE PRESIDENT:     Senator  
23     Schneiderman.

24                  SENATOR SCHNEIDERMAN:     Thank you,  
25     Madam President.

1                   Very briefly, I think that this is  
2                   a good example of the nomination process  
3                   working well. I want to echo what Senator  
4                   Stachowski mentioned, that I did have a chance  
5                   to speak with Mr. Boyle and pass along a  
6                   resolution of Community Board 12.

7                   There are concerns in New York  
8                   City. And specifically the community board  
9                   resolution notes that the SLA has for years  
10                  granted licenses before the community board  
11                  has had an opportunity to meet with the  
12                  business owners and forward their  
13                  recommendations. There has been an  
14                  undermining of the SLA's own procedures.

15                  We are -- I'm well aware of the  
16                  fact that I think that this nominee has  
17                  received an earful about a lot of things that  
18                  may not even relate to him. But there are  
19                  legitimate concerns. I assure you, this is  
20                  not a matter of people raising frivolous  
21                  issues, this is tremendously important to a  
22                  lot of communities in our city and in our  
23                  state.

24                  I look forward to working with him  
25                  and to following up on the recommendations of

1 the community boards in my district and  
2 others, and other organizations that have  
3 raised these concerns. I think he has proved  
4 very responsive, and I appreciate his  
5 willingness to engage in this sort of  
6 dialogue.

7 Thank you, Madam President.

8 THE PRESIDENT: The question now  
9 is on the nomination of Daniel B. Boyle as a  
10 member of the State Liquor Authority. All in  
11 favor please signify by saying aye.

12 (Response of "Aye.")

13 THE PRESIDENT: Opposed, nay.

14 (No response.)

15 THE PRESIDENT: The nominee is  
16 hereby confirmed.

17 He is here with his wife, Patti,  
18 and his daughter, Kerry.

19 Best wishes for success in your new  
20 position.

21 (Applause.)

22 THE PRESIDENT: The Secretary  
23 will continue to read.

24 THE SECRETARY: As members of the  
25 New York State Bridge Authority, Roderick O.

1 Dressel, of New Paltz, and Thomas J. Madison,  
2 Jr., of Waterford.

3 And as a member of the Buffalo and  
4 Fort Erie Public Bridge Authority-Peace  
5 Bridge, Paul J. Koessler, of Buffalo.

6 THE PRESIDENT: Senator Spano.

7 SENATOR SPANO: Move the  
8 nominations, Madam President.

9 THE PRESIDENT: The question now  
10 is on the nomination of Roderick O. Dressel  
11 and Thomas J. Madison as members of the  
12 New York State Bridge Authority, and on the  
13 nomination of Paul J. Koessler as a member of  
14 the Buffalo and Fort Erie Public Bridge  
15 Authority-Peace Bridge.

16 All in favor of the nominations  
17 please signify by saying aye.

18 (Response of "Aye.")

19 THE PRESIDENT: Opposed, nay.

20 (No response.)

21 THE PRESIDENT: The nominees are  
22 hereby confirmed.

23 Congratulations to the three  
24 nominees who have just been confirmed.

25 Senator Spano.

1                   SENATOR SPANO:     Madam President,  
2     any other business at the desk?

3                   THE PRESIDENT:     No, there is not,  
4     Senator.

5                   SENATOR SPANO:     On behalf of  
6     Senator Bruno, in consultation with Senator  
7     Paterson, I'd like to hand up the following  
8     leadership and committee assignment changes.

9                   THE PRESIDENT:     They will be  
10    filed in the Journal, Senator Spano.

11                  SENATOR SPANO:     And there being  
12    no further business, I move that we adjourn  
13    until Monday, February 27th, at 3:00 p.m.,  
14    intervening days being legislative days.

15                  THE PRESIDENT:     On motion, the  
16    Senate now stands adjourned until Monday,  
17    February 27th, at 3:00 p.m., intervening days  
18    being legislative days.

19                  (Whereupon, at 1:00 p.m., the  
20    Senate adjourned.)

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