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

P R O C E E D I N G S

THE PRESIDENT: The Senate will please come to order.

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

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

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

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

THE PRESIDENT: Reading of the Journal.

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

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

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

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

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

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

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

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

and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

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

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

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

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

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

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

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

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

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

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

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

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

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

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

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

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

assigned to take the town had been beaten back; and

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

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

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

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

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Thank you, Madam President.

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

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

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

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

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

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

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

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

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

and honor such a distinguished military unit.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

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

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

Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

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

reducing.

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

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, 41.

THE PRESIDENT: The bill is passed.

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

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

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

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

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, 43.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is

passed.

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

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, 43.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

Ayes, 43. Nays, 2.

THE PRESIDENT: The bill is passed.

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

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, 45.

THE PRESIDENT: The bill is passed.

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

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, 45.

THE PRESIDENT: The bill is passed.

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

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, 45.

THE PRESIDENT: The bill is passed.

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

THE PRESIDENT: 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, 45.

THE PRESIDENT: The bill is passed.

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

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 PRESIDENT: Senator LaValle, to explain your vote.

SENATOR LaVALLE: Thank you, Madam President.

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

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

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

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

I vote in the affirmative.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

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

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, 47.

THE PRESIDENT: The bill is passed.

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

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, 50.

THE PRESIDENT: The bill is

passed.

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

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Thank you, Madam President.

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

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

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

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

The Senate stands at ease.

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

ACTING PRESIDENT FUSCHILLO: Senator Skelos.

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

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

The Senate will stand at ease.

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

SENATOR SPANO: Madam President.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Can we return to motions and resolutions.

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

THE PRESIDENT: The Secretary will read.

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

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Robach.

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

Print Number 3331, which is at the desk.

THE PRESIDENT: The Secretary will read.

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

THE PRESIDENT: Senator Robach.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

THE PRESIDENT: So ordered.

Senator Spano.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Johnson,

from the Committee on Finance, reports the following nominations.

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

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

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

(Laughter.)

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

THE PRESIDENT: Senator Maziarz.

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

THE PRESIDENT: Senator Young.

SENATOR YOUNG: Thank you very much.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THE PRESIDENT: Senator Meier.

SENATOR MEIER: Thank you, Madam

President.

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

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

(Laughter.)

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

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

very creative way to problems.

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

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

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

that's one of the ways he sold himself.

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

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

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

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

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

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

THE PRESIDENT: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

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

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

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

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

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

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

Patrick, congratulations. It's

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

Thank you, Madam President.

THE PRESIDENT: Senator Nozzolio.

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

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

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

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

global marketplace.

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

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

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

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

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

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

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

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

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

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

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

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

THE PRESIDENT: Thank you, Senator Nozzolio.

Senator Wright.

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

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

(Laughter.)

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

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

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

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

agriculture.

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

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

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

Thank you, Madam President.

THE PRESIDENT: Senator Valesky.

SENATOR VALESKY: Thank you, Madam President.

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

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

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

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

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

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

SENATOR LARKIN: Thank you, Madam President.

THE PRESIDENT: By all means.

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

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

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

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

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

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

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

Patrick, I'm honored to know you,

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

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Commissioner, and best wishes for success.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

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

THE PRESIDENT: Senator Spano.

SENATOR SPANO: I yield to Senator Nozzolio.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you,

Madam President.

I rise to place in nomination the name of Robert Maccarone, of White Plains, New York, to serve as Director of the Division of State Probation and Correctional Alternatives.

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

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

Madam President, it's an excellent nomination.

And I turn my comments back to Senator Spano.

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

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

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

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

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

THE PRESIDENT: Senator Oppenheimer.

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

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

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

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

THE PRESIDENT: The question now is on the nomination of Robert M. Maccarone,

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

Congratulations, Director, and best wishes for success.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

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

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Thank you, Madam President.

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

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

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

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

agency.

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

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

I am -- it's my pleasure to speak

in support of the nomination of Dan Boyle.

THE PRESIDENT: Senator Volker.

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

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

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

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

THE PRESIDENT: Senator Ada

Smith.

SENATOR ADA SMITH: Thank you, Madam President.

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

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

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

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

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

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

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

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

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

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

We literally have received hundreds

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

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

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

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

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

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

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

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

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

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

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

So our feeling was that if we had

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

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

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

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

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

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

Thank you.

THE PRESIDENT: Senator Stachowski.

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

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

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

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

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

THE PRESIDENT: Senator Malcolm Smith.

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

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

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

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

Thank you very much.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

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

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

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

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

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

Thank you, Madam President.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

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

Best wishes for success in your new position.

(Applause.)

THE PRESIDENT: The Secretary will continue to read.

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

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

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

THE PRESIDENT: Senator Spano.

SENATOR SPANO: Move the nominations, Madam President.

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

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are hereby confirmed.

Congratulations to the three nominees who have just been confirmed.

Senator Spano.

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

THE PRESIDENT: No, there is not, Senator.

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

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

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

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

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