NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 30, 2007

3:12 p.m.

REGULAR SESSION

SENATOR GEORGE H. WINNER, Jr., Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT WINNER: The Senate will 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.)

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

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

ACTING PRESIDENT WINNER: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, April 29, the Senate met pursuant to adjournment. The Journal of Saturday, April 28, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT WINNER: 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: If you could recognize Senator Nozzolio, please.

ACTING PRESIDENT WINNER: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Amendments are offered to the following Third Reading Calendar bills:

Senate Print Number 2695A, page number 25, Calendar Number 390, by Senator Wright;

Senate Print Number 1756, Calendar Number 475, page number 29, by Senator Rath;

And Senate Print Number 3316, Calendar Number 579, page number 36, by Senator Winner.

ACTING PRESIDENT WINNER: Thank you, Senator Nozzolio.

The amendments are received and adopted, and the bills will retain their place on the Third Reading Calendar.

SENATOR NOZZOLIO: Thank you, Mr. President.

ACTING PRESIDENT WINNER: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

This is a motion to amend a bill recalled from the Assembly. On behalf of Senator Volker, I wish to call up Print Number 1263, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: Calendar Number 67, by Senator Volker, Senate Print 1263, an act to amend the Penal Law.

SENATOR BONACIC: Mr. President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT WINNER: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR BONACIC: Mr. President, I now offer the following amendments.

ACTING PRESIDENT WINNER: The amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Bonacic.

SENATOR BONACIC: Second order of business, Mr. President, I wish to call up Senator Volker's bill, Print Number 650, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: Calendar Number 36, by Senator Volker, Senate Print 650, an act to amend the Mental Hygiene Law and others.

SENATOR BONACIC: Mr. President, I move to reconsider the vote by which this bill was passed and ask that the bill be restored to the order of third reading.

ACTING PRESIDENT WINNER: Call

the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

SENATOR BONACIC: Mr. President, I now move to recommit Senate Print Number 650, Calendar Number 36 on the order of the Third Reading Calendar, to the Committee on Mental Health and Developmental Disabilities, with instructions to that committee to strike out the enacting clause.

ACTING PRESIDENT WINNER: So ordered.

SENATOR BONACIC: Thank you, Mr. President.

ACTING PRESIDENT WINNER: Thank you, Senator Bonacic.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Judiciary Committee in the Majority Conference Room. And the Senate will stand at ease.

ACTING PRESIDENT WINNER: The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:16 p.m.)

(Whereupon, the Senate reconvened at 3:24 p.m.)

ACTING PRESIDENT NOZZOLIO: Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room, and we'll stand at ease pending the return of the Rules report.

ACTING PRESIDENT NOZZOLIO: There will be an immediate meeting of the Rules Committee in the Senate Majority Conference Room.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:25 p.m.)

(Whereupon, the Senate reconvened at 3:28 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WINNER: Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, I believe there's a Rules report at the desk. I ask that it be read at this time.

ACTING PRESIDENT WINNER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill:

Senate Print 5313, by Senator DeFrancisco, an act to amend the Judiciary Law.

ACTING PRESIDENT WINNER: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT WINNER: All those in favor of accepting the Rules Committee report signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

ACTING PRESIDENT WINNER: The Rules Committee report is accepted.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WINNER: Senator Skelos.

SENATOR SKELOS: There's a resolution at the desk by Senator Maziarz. If we could have it read in its entirety and move for its immediate adoption.

ACTING PRESIDENT WINNER: The Secretary will read.

Can we have some order in the chamber, please.

THE SECRETARY: By Senator Maziarz, Legislative Resolution Number 1793, honoring Theresa Hallatt upon the occasion of her coronation as Miss Teenager of New York State 2006.

"WHEREAS, It is the sense of this Legislative Body to act, in accord with its long-standing traditions, honoring the youth of today and leaders of tomorrow whose character and achievements best exemplify the ideals and values cherished by this great state and nation; and

"WHEREAS, Theresa Hallatt, a young woman of singular distinction, has so eminently distinguished herself as a young woman of superlative ability, talent and maturity, establishing a standard of

excellence and purposefulness of life rarely achieved in youthful years; and

"WHEREAS, This Legislative Body is justly proud to honor Theresa Hallatt upon the occasion of her coronation as Miss Teenager of New York State 2006 --

ACTING PRESIDENT WINNER: Excuse me.

Can we have some order in the chamber.

THE SECRETARY: "And WHEREAS, This Legislative Body is justly proud to honor Theresa Hallatt upon the occasion of her coronation as Miss Teenager of New York State 2006 at a pageant held in Norwich, New York, on August 19, 2006; and

"WHEREAS, A senior at Spencerport High School, Theresa Hallatt is an honors student who loves participating in French Club. In fact, her winning speech was about her trip to France and London with the school's French Club for spring break last year; and

"WHEREAS, Besides learning about European cultures, Theresa Hallatt also enjoys

making jewelry and competing in the All American Soap Box Derby. She holds two championships in derby racing: 2004 Stock West Champion and 2006 Super Stock West Champion. While competing in the World Championship of the All American Soap Box Derby, she placed 48th in the world; and

"WHEREAS, With her new title, Theresa Hallatt has developed a platform through the Crisis Nursery of Rochester, an organization that helps take care of babies and children that need a place to stay; and

"WHEREAS, In addition, Theresa Hallatt volunteers with Operation Christmas Child, a Christian relief organization that helps gather boxes full of gifts and necessities for less fortunate children around the world; and

"WHEREAS, Upon graduation, Theresa Hallatt aspires to attend medical school and follow her dream of becoming an anesthesiologist; and

"WHEREAS, Through her active involvement in the community and her sincere dedication to children, Theresa Hallatt is a

role model for her peers; and

"WHEREAS, She best exemplifies the best potential in our most precious resource, our youth. She has brought enduring honor to her family and her community through her many achievements; and

"WHEREAS, This Legislative Body is moved to honor Theresa Hallatt, recognizing the value of her labors and the promise of her future; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor Theresa Hallatt upon the occasion of her coronation as Miss Teenager of New York State 2006; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Theresa Hallatt."

ACTING PRESIDENT WINNER: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President.

I too want to join and introduce my colleagues to Theresa, Ms. Teenager of New York State, from Spencerport in Monroe

County. You heard all about Theresa and her fine accomplishments.

You know, all too often in this state and in this nation we read newspaper articles about high schoolers, teenagers who are doing bad things. And here we have an example, a statewide example -- although I'm proud for my district -- who shows the overwhelming majority of great kids that we have in the great school systems that we have throughout New York State.

And the Secretary read all the accomplishments of Theresa at the very young age of 17. But one of the things that I wanted to specifically mention was this Crisis Nursery of Rochester.

This is an institution -- a home, really -- where police officers go to a home and, you know, many times it's a domestic violence situation and one parent goes off to jail, the other parent may go off to the hospital. Where do the kids go?

And one retired police officer was in this situation one time on Christmas Eve, and there was really no place to take very

young children. And this police officer, when she retired, formed this Crisis Nursery of Rochester. And now when there's a situation like this and the police officers have no place to take the kids, they take them to this nursery, which is suitable for young children. It's a great haven for young children.

Theresa volunteers to help that Crisis Nursery, and she's a great example for other young people throughout this state.

Theresa is joined here today by her parents. Congratulations to you, Theresa. You're a great example for high schoolers all across New York. Thank you for being here.

ACTING PRESIDENT WINNER: Thank you, Senator Maziarz.

Senator Nozzolio, on the resolution.

SENATOR NOZZOLIO: Thank you, Mr. President. On the resolution.

I rise to congratulate Senator Maziarz for bringing to this house an accomplished young woman.

And we from Wayne County -- and by "we," along with Senator Maziarz, myself,

Senators Robach and Alesi -- are very proud of the fact that Theresa hails from Monroe County, was selected to be Miss New York State in a competitive contest where individual young women from all across this state competed. And we're certainly glad that the selection was Theresa, and congratulate her, from Monroe County.

And congratulations to her, and we wish her all the best of luck and continued success in her career.

And thank you, Senator Maziarz, for the resolution.

ACTING PRESIDENT WINNER: Thank you, Senator Nozzolio.

The question is on the resolution. All in favor of adopting the resolution signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WINNER: Opposed, nay.

(No response.)

ACTING PRESIDENT WINNER: The resolution is adopted.

Congratulations.

(Applause.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WINNER: Senator Skelos.

SENATOR SKELOS: If we could go to the noncontroversial reading of the calendar.

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: Calendar Number 88, by Senator Maziarz, Senate Print 1629, an act to amend the Labor Law, in relation to appointments.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number

122, by Senator Maziarz, Senate Print 1890, an act to amend the Labor Law and the State Finance Law, in relation to the New York State Worker Protection Board.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 90th day.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 144, by Senator Marcellino, Senate Print 699B, an act to amend the Environmental Conservation Law, in relation to special permits.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 279, by Senator Seward, Senate Print 1774, an act to amend the Tax Law, in relation to extending.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 313, by Senator Bonacic, Senate Print 1711, an act to amend the Retirement and Social Security Law, in relation to benefits payable.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the 90th day.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 338, by Senator Fuschillo, Senate Print 2969A, an act to amend the General Business Law, in relation to prohibiting.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 340, by Senator Fuschillo, Senate Print 3555, an act to amend the General Business Law, the Real Property Law, and the Executive Law, in

relation to providing.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 377, by Senator Hassell-Thompson, Senate Print 2120, an act to amend the New York City Civil Court Act, in relation to candidates.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 524, by Senator Volker, Senate Print 3566, an act to amend the Criminal Procedure Law, in relation to waiver.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 30th day.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Perkins recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 529, by Senator Nozzolio, Senate Print 3672, an act to amend the Penal Law, in relation to the definition of dangerous contraband.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of September.

ACTING PRESIDENT WINNER: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57. Nays, 1. Senator Perkins recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 542, by Senator Little, Senate Print 1104, an act to amend the Tax Law, in relation to extending.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 551, by Senator Larkin, Senate Print 233, an act to amend the Environmental Conservation Law, in relation to deer season.

ACTING PRESIDENT WINNER: Read

the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 551 are Senators Duane, Perkins, Serrano and Seward.

Ayes, 54. Nays, 4.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 554, by Senator Farley, Senate Print 2743, an act to amend the Environmental Conservation Law, in relation to making technical corrections.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 555, by Senator Marcellino, Senate Print 2759, an act to amend the Environmental Conservation Law, in relation to protecting information.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 555 are Senators Perkins and Serrano.

Ayes, 56. Nays, 2.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 570, by Senator Little, Senate Print 1135, an act to amend the Town Law, in relation to authorizing the designation of hamlets.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 585, by Senator Golden, Senate Print 4156, an act to amend Chapter 465 of the Laws of 1994, amending Chapter 285 of the Laws of 1891.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 591, by Senator Wright, Senate Print 3752A, an act to amend the Mental Hygiene Law, in

relation to providing.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as Chapter 7 of the Laws of 2007.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 592, by Senator Morahan, Senate Print --

SENATOR BRUNO: Lay it aside for the day.

ACTING PRESIDENT WINNER: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 593, by Senator Morahan, Senate Print 4006, an act to amend the Mental Hygiene Law, in relation to disclosure.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 596, by Senator Little, Senate Print 2793A, an act to amend the Education Law, in relation to continuing education.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of January.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 598, by Senator LaValle, Senate Print 3673, an act to amend the Education Law, in relation to

volunteer recruitment.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 712, by Senator DeFrancisco, Senate Print --

SENATOR BRUNO: Lay it aside.

ACTING PRESIDENT WINNER: The bill is laid aside.

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

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the controversial calendar.

ACTING PRESIDENT WINNER: The Secretary will ring the bell.

Calendar Number 712, the Secretary

will read.

THE SECRETARY: Calendar Number 712, by Senator DeFrancisco, Senate Print 5313, an act to amend the Judiciary Law.

ACTING PRESIDENT WINNER: Senator Bruno.

SENATOR BRUNO: Mr. President and colleagues, I want to commend Judge Kaye for forwarding or supporting the piece of legislation that's before us now.

And I want to commend Senator John DeFrancisco, who has been in a leadership position, recognizing how important it is that we recognize the service of judges in this state, who have been lagging for years in terms of any escalation at all in their pay.

And the bill that the Chief Judge had constructed also includes a commission, as you all know, that addresses statewide offices, commissioners and the Legislature, and has an automatic COLA in it.

I'd like to just read a sentence from the support memo of the League of Women Voters. It says: "Compensation decisions for the three branches of government must stand on

their own merit, not linked to other policy or political debates of the day, and must be objective, transparent, and nonpartisan." Now, that really says it all.

Senator Smith, when I look at the bill, there are, I believe, 62 Senators on this bill. Sixty-two Senators. All of the members in this chamber Thursday supported the legislation that is on the floor.

I would expect that, as sponsors, that we would be passing this unanimously and forwarding it to the Assembly for their appropriate action. And I would also expect that this not be linked to other issues like campaign finance reform or you name whatever other issue anybody wants to support.

Thank you very much. League of Women Voters. I want you all to get a copy of this. It says: "Importantly, this legislation would also depoliticize pay raises and prevent any Governor from extorting favored legislation from the Legislature in return for pay raises."

Question. Question. Would Senator Smith stand for a question?

ACTING PRESIDENT WINNER: Senator Bruno, are you asking Senator Smith to yield?

SENATOR BRUNO: I've got the floor. Why would I ask him to yield?

(Laughter.)

SENATOR BRUNO: He doesn't have to yield. He hasn't spoken on the bill. Sorry, Mr. President.

I'm asking if he would stand for a question.

ACTING PRESIDENT WINNER: Senator Smith, would you yield to a question from Senator Bruno?

SENATOR SMITH: Yes.

SENATOR BRUNO: Thank you, Senator Smith. You're very, very congenial, and you're very informed, and I would like to ask you one basic, simple question.

SENATOR SMITH: Yes, sir.

SENATOR BRUNO: Are you going to support the legislation that you have led your conference to sponsor on the floor today? And if not, why not?

SENATOR SMITH: No, I am not going to support the bill today, as we have

discussed earlier.

As many members know, from the day that I was elected the Minority Leader, I was the first one who took a tremendous amount of bullets from all of the press because my first act, my first statement after being elected as Minority Leader was that the members deserve a pay raise.

Many people have said that Albany is dysfunctional and until we clean up the members that are here, that they don't deserve to get a pay raise.

Well, my argument was Albany -- the members are not dysfunctional. Maybe the process. Maybe the system. Maybe the lack of rules reform that we have asked for, that Senator Paterson asked for, that Marty Connor asked for over the years as leaders -- that needs to be changed.

Bringing bills to the floor, bringing bills out of committee, equality of resources, as Senator Bonacic has put a bill forward as well as Senator Griffo talked about resources being equal to everybody. That has always been asked for, and that was something

that I agreed with and I still agree with today. Those are the kind of things that make the system that is broken here.

Now, I say that all to say that I am absolutely, positively in support of pay raises and equity pay raises for members as well as judges. However, you know and each one of the members know that over the last several years everyone has said to us: You need to make sure you do the proper reforms in Albany so that we, the public, will regain our confidence in our institution.

Now, we have probably one of the greatest institutions in this country, the Senate of the State of New York. However, the public has said to us: You know something, Senator Bruno, you know something, Senator Bonacic, you know something, Senator Robach, you know something, Senator Golden? I'm not sure if I have the confidence in what you guys do up in Albany anymore, so what I would like is for you to make some changes.

Which we did. We did the ethics bill, which was a sign of reform. We did what people fought about, which was civil

confinement, which we did. Which was reform.

ACTING PRESIDENT WINNER: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: I just had a question for Senator Smith if he'd respond, please.

ACTING PRESIDENT WINNER: Senator DeFrancisco, we're a little off track here. But Senator Bruno really has the floor. He asked Senator Smith to yield for a question, and Senator Smith is now responding. And we're trying to get this thing back into order here.

SENATOR BRUNO: I'm almost sorry that I asked.

(Laughter.)

SENATOR SMITH: Thank you, Senator. I appreciate you allowing me to complete my statement.

So civil confinement, along with ethics, we did. We reformed. We have a campaign finance bill, along with other priorities, Article 10 siting, public authorities. There are some things that as a conference, as a body, we need to make sure we

get done before we tell the public we are interested in satisfying our own personal interests.

Now, I'm for pay raises. I believe we deserve that. But I also want to make sure when I go back to my neighborhood I can say, to the people in my district: I've made sure I rebuilt your confidence in our body before I took care of myself.

I just believe if we pay ourselves or put a commission in place and tell the public we are more interested in taking care of ourselves as opposed to taking care of making sure their belief in us is rebuilt, I think that is a problem.

ACTING PRESIDENT WINNER: Senator Bruno.

SENATOR BRUNO: Thank you, Senator Smith, for that very lengthy and exhaustive explanation.

One more question, short question, short answer, if you would indulge me.

SENATOR SMITH: Must I guarantee a short answer?

SENATOR BRUNO: Yes.

SENATOR SMITH: Yes, I do yield to the question.

SENATOR BRUNO: And I just will again refer to the League of Women Voters, nonpartisan, objective, bipartisan. They refer to this as an outstanding reform, part of the reforms of the Legislature.

What happened from Thursday and Friday when we talked about you and your conference supporting this unanimously and this moment? What happened in your life?

SENATOR SMITH: In my life? I lost my last golf round.

(Laughter.)

SENATOR BRUNO: Why have you, as relates to your position -- something happened --

SENATOR SMITH: Yes. Yes.

SENATOR BRUNO: -- from Thursday and Friday when we talked --

SENATOR SMITH: Yes. Yes.

SENATOR BRUNO: -- to this moment. What happened? I didn't --

SENATOR SMITH: You didn't let me answer the question.

SENATOR BRUNO: -- hear the sounds of a steamroller, but maybe I missed it.

(Reaction from the floor.)

SENATOR SMITH: What's with the peanut gallery over here?

(Laughter.)

ACTING PRESIDENT WINNER: Senator Smith, do you wish to be heard on the bill?

SENATOR SMITH: No, I would like to answer the question. I will answer the question.

Nothing. You said be short.

ACTING PRESIDENT WINNER: Senator Smith, are you asking Senator Bruno to yield?

SENATOR SMITH: No, I answered the question.

SENATOR BRUNO: Thank you, Senator Smith, for that very direct answer.

Thank you, Mr. President.

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: You know, it's really a shame that this topic is being responded to with levity, because it's a very,

very serious issue that I've worked on for a long time.

And I think the most important part of this bill is that the bill presents a new process on how these decisions are made. It is unseemly for judges to come to the Legislature on bended knee to try to get pay raises and they don't happen for nine or ten years simply because there's other issues that are tied into them.

It's the same thing with executive branch members or legislators. Every year it's a political football. What chip are you going to play in the unending poker game of state government? And that is the most ridiculous way to resolve these issues.

Last year when Judge Kaye came out with a bill almost identical to this one, you know, it was really a breath of fresh air. Because there's independent commissions in the future making these decisions after the judges get their pay raise this year that they truly deserve. And then forever, there will never be this debate again. As the League of Women Voters said, the issue will be determined on

its merits by an independent group. Reform. True reform. And it protects the separation between the governmental units.

Now, everyone here has their own points of view on life. But if anyone for one moment believes that nothing happened between Friday, when everyone's name was on this bill, till today, they're either naive or not being honest with themselves. And it's pretty obvious what happened just from the press release from Senator Smith.

That's not the way an independent branch of government works. And I know there are many colleagues on the other side of the aisle -- probably most, if not all, would love to stand up and vote for this bill. You know why? Because it's the right thing to do.

And speaking for reform that we need before we do reform is amazing. We got to do more reform before we do this reform.

Well, ladies and gentlemen, I would urge you that you look at your consciences here, tell, if you're really being honest with yourselves, whether you believe that this is a bill that should be voted for, and vote for

the bill so there's a reasonable chance we could get this through the Assembly, who also was in favor of it up till Friday, and nothing happened to them between Friday and now.

We need a vote here not only to change the judges' structure of salaries but also to change a process, reform a process. Please take the politics out, which apparently is what everyone wants to have happen, and vote on the merits of this bill. Just like future raises will be voted on by the merits by people looking at objective standards.

So I urge all of you to join with us in this bill and support it today.

Thank you.

ACTING PRESIDENT WINNER: Thank you, Senator DeFrancisco.

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

When I was a member of the New York City Council, my salary was $90,000 a year. And I was the chairman of the Aging Committee, so I had an extra $10,000. So I used to make $100,000 as a City Council member.

And I decided to get a cut in salary to come here to the Senate. Because I am not an elected official to make money, I am an elected official to make a statement, to make statements, and to do what I believe and to do what I think is right for the community.

So I have an office with four staff members. People say that we are part-time. My staff, my office receives every single day, Senator Bruno, from 25, 30, and 40 constituents. My staff come to the work at 9 o'clock in the morning, and sometimes at 12 midnight they're still in the street, in different meetings.

And I'm not ashamed to say that I deserve a raise, because I work for it, full-time. This Saturday I left my home and my wife at 8 o'clock in the morning, and I came home at 11 o'clock at night. I'm a full-time worker. And my community and the people in the 32nd Senatorial District that I represent know me and know that I work, that I am always in my office.

So I'm not ashamed to say that I don't care what the -- oh, what is the press

going to say? Let the press say whatever they want to say.

And I also believe that the judges deserve a salary increase. But I also believe that the Governor, if he wants to have a reform, financial reform on us, he should also have a reform on himself. I just read this week, this week I read in the New York Post that the Governor is asking some people for over a million dollars, and he will -- they will get some access.

So a millionaire, the mayor of the city or a millionaire, they could pay for their own campaign. We black and Hispanic minorities, we will not be even able to compete with them in campaigns.

So that's the issue. Financial campaign reform has nothing to do with this. I will vote for financial campaign reform when the Governor puts a limit on how much the rich people could put out from their pocket. As long as rich people could put all the money they want, there will be no financial campaign reforms.

So, Senator Bruno, I am supporting

your bill and I'm voting for that bill. Because I deserve a raise, because I work for it. And my constituents know that I work for it. And not only me, I also want an increase for my staff and for all the staff that work so hard. They deserve also an increase in salary, because they do work and they are there day and night. And nobody cares about the staff members.

So I'm telling you, for my staff, all of you Senators here, let's not only get an increase for us, let's also consider our staff members. They deserve an increase in salary too.

So, ladies and gentlemen, I'm proud, I'm proud to support this bill. Because I work for it. And that is my job, is my constituents. It has nothing to do with financial reform.

So thank you very much.

ACTING PRESIDENT WINNER: Thank you, Senator Diaz.

Senator Thompson.

SENATOR THOMPSON: Yes, Mr. President, I rise in opposition to this

bill for a couple of quick reasons.

One, as a new member of the Senate, I believe that this is the wrong time to link these two very important issues together.

The best man at my wedding, who is also one of my best friends, Judge Craig Hannah, who was just elected to City Court in Buffalo -- a very good friend of mine, we've been friends for over 20 years -- would be affected by this bill. And I have a number of friends that would be affected by the bill as judges.

I believe that they should be separate and that the commission should be a separate item. They should not be linked together.

I also believe that the fact that the City of Buffalo, the workers -- police officers, firefighters, teachers, street and sanitation workers, laborers in the City of Buffalo have not had a raise in five years. You have the Erie County Control Board that's been in existence for about two years.

Workers in Western New York are suffering. So I can't in good conscience vote

for myself or anyone else a raise at this point when the workers in Western New York have not had a raise in five years. And so I think it would send a terrible message for me, as a lawmaker from Western New York, which is economically suffering from the last twenty-plus years, and vote for a pay raise at this point in time.

The other thing I think is important is Albany needs an extreme makeover. Yes, there's been some reforms --

ACTING PRESIDENT WINNER: Senator Padavan.

SENATOR THOMPSON: -- there's been some changes, but I also believe that we need to continue --

ACTING PRESIDENT WINNER: Senator Thompson, excuse me.

Senator Padavan, why do you rise?

SENATOR PADAVAN: Yes. Would the Senator yield to a question?

ACTING PRESIDENT WINNER: Senator Thompson, do you yield to Senator Padavan?

SENATOR THOMPSON: Yes, absolutely.

ACTING PRESIDENT WINNER: The Senator yields.

SENATOR PADAVAN: Senator, with all due respect to the concerns you have, and I'm sure they're valid ones with regard to the workers in Western New York, you made two statements. One, that you could not vote for this bill in good conscience, for it was a bill for a raise for yourself.

I correct you in the latter case. It's not a raise for yourself. It's not a raise for anybody. It's establishing a commission.

But my question to you is your conscience, which of course is important to you and important to everybody --

SENATOR THOMPSON: Absolutely.

SENATOR PADAVAN: -- why did your conscience allow you to be a sponsor of this bill?

SENATOR THOMPSON: Sir, as you may know, we get information on a regular basis. And when I found out the exact content of the bill, I was in complete opposition.

And I've been extremely upset. No

reporter called me. I know that the reporters in Western New York called a number of the members of the Western New York Senate delegation. And if I would have received a call over this weekend, I would clearly have told them that I was in opposition to this bill.

I have a bill in the Senate right now to lift the wage freeze for the City of Buffalo if they meet certain criteria. If you help to lift the wage freeze for the City of Buffalo, I would gladly support a pay raise.

But I cannot, with -- firefighters, police officers, teachers, street sanitation workers, people who fill the potholes have not received a pay raise in five years. How can I in good conscience support this when these same people from AFSCME, CSEA, the police officers, Local 282 firefighters -- they supported me, and they sent me here for one thing, to make sure that we lift the wage freeze. And we have not done that. And I don't support this bill.

Thank you.

ACTING PRESIDENT WINNER: Senator

DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: I request that he yield for a question.

SENATOR THOMPSON: Yes, sir.

ACTING PRESIDENT WINNER: Senator Thompson yields.

SENATOR DeFRANCISCO: So is it true that you're saying before giving your name as a sponsor to this bill, you didn't read it?

SENATOR THOMPSON: What I am saying to you, sir --

SENATOR DeFRANCISCO: It's simple.

SENATOR THOMPSON: Excuse me? Repeat your question.

SENATOR DeFRANCISCO: Are you saying -- it's a very simple question -- that before you agreed to cosponsor this bill you did not read it?

SENATOR THOMPSON: I did not receive the information.

SENATOR DeFRANCISCO: You did not read it.

SENATOR THOMPSON: I did not

receive the information.

SENATOR DeFRANCISCO: Okay. One other question. Would he yield?

ACTING PRESIDENT WINNER: Senator DeFrancisco asks you to yield, Senator Thompson.

SENATOR THOMPSON: Yes.

ACTING PRESIDENT WINNER: Senator Thompson yields.

SENATOR THOMPSON: I had a budget memo, like many other people receive a budget when you're asked to sponsor any bill. Did I receive the complete bill? No, I did not.

But when I -- if you send me a bill and say "Senator Thompson, would you support a bill," I get a budget memo. And if I believe with the majority of the context of the budget memo, generally I will support the bill.

SENATOR DeFRANCISCO: Would you yield to another question?

SENATOR THOMPSON: Sure. Certainly.

SENATOR DeFRANCISCO: Senator Thompson, are you saying that you were expecting a budget bill after the budget is

done?

SENATOR THOMPSON: Excuse me?

SENATOR DeFRANCISCO: Are you suggesting you were waiting for the budget bill after the budget has been passed?

SENATOR THOMPSON: No, I didn't say that.

SENATOR DeFRANCISCO: One other question. Would you yield?

ACTING PRESIDENT WINNER: Will the Senator yield?

SENATOR THOMPSON: Sure. Certainly.

SENATOR DeFRANCISCO: You had indicated that this bill should be separated from the judges; correct?

SENATOR THOMPSON: I said the commission on salaries for legislators should be separated from the judicial pay raises. Yes, I did say that.

SENATOR DeFRANCISCO: Would you yield to another question?

SENATOR THOMPSON: Yes, sir.

SENATOR DeFRANCISCO: Would you tell me whether or not, if they were

separated, you would vote for a judicial pay raise?

SENATOR THOMPSON: Depending on whether or not the issue with the -- the other control board issue is resolved.

SENATOR DeFRANCISCO: The issue with Buffalo?

SENATOR THOMPSON: Yes. Which has been clocked in with the clerk, which has not been afforded the go-to out of committee yet.

SENATOR DeFRANCISCO: Thank you.

SENATOR THOMPSON: Thank you.

ACTING PRESIDENT WINNER: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, in looking at this bill, I just wanted to make sure I counted the number of names on the bill. There were some 62 names on the bill, one for each member of this chamber. And the bill is dated April 25th. And that bill, as has been pointed out, was seemingly embraced fully by every member of this chamber. And something

between the time every member of this chamber agreed to be a sponsor and this moment in time that places us in this chamber happened.

And I think we all have an idea of what it was that happened. And I'm sure there's a significant amount of pain being experienced by some of my colleagues who saw fit to put their name on this bill and have now seen fit to take their name, in effect, off the bill by voting against the very bill that they had agreed to sponsor.

I can understand the need at times to work with the Governor of your own party. But I can also understand, every bit more importantly, the importance to assert your independence as a legislative body. And we have had these battles on more than one coalition with the prior Governor, who was of the party of this Majority.

And I found interesting and commented during the course of the debate that we had on the Governor's healthcare proposal how the very same proposal, virtually the same proposal, had been with virtual unanimity rejected by our friends on the other side of

the aisle. And yet the fact that this Governor had made it very important that there be compliance with his wishes, that that somehow or other created certainly, if not an intellectual metamorphosis, what I will call politely a political metamorphosis.

The last time I checked, and it's been a long time since I've dusted off my history books as a former history major, we rejected the monarchy, I think, in 1776. And General George Washington was offered the monarchy, and he declined the monarchy simply because he didn't think that that was the appropriate thing for this nation to embrace.

And it would be a sad commentary when one got up in the morning, looked in the mirror, the Executive of this state spoke to himself in the mirror, made all the decisions in the mirror, and then decided that we would all march forward in lockstep, much as we would were we mindless, willy-nilly little puppets on the strings of a marionette master.

So the issue really transcends this particular bill, because nobody who's a member of this Legislature is getting a raise

pursuant to this bill. This bill establishes a process, in conjunction with what very importantly is a process sought by the Chief Judge of the Court of Appeals.

And it may well be that come 2009, some of us will not be here. Some of it may be because we failed the electorate test. Some of it may be because we've decided to go other places.

So it's a sham to say that this is about the issue of you must have more reform because this isn't reform enough to get there. Let us face the stark reality and acknowledge there are some very sore arms.

I noticed when the Minority Leader was speaking, he was using his right arm only, with his left arm in his pocket. I was fearful that his left arm was broken. I really wasn't quite sure. But I later saw him withdraw it from his pocket, so I assumed that in fact there was no gross physical injury to whatever transpired to create this enormous metamorphosis.

I think, ladies and gentlemen, it really is a matter of pride as a member of the

Legislature -- notwithstanding the issue that may be contained in this particular measure, all the merits that it may offer us -- I think it's a matter of pride of an independent Legislature that we refuse to be bullied that requires us to vote in favor of this bill.

Thank you, Mr. President.

ACTING PRESIDENT WINNER: Thank you, Senator Saland.

Are there any other Senators wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time read the last section and then start calling the roll? Because there may be members that want to explain their vote, and it will give us a chance to get the other members to the chamber.

ACTING PRESIDENT WINNER: Thank you, Senator Bruno.

SENATOR BRUNO: Thank you.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WINNER: Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, sir.

I'm voting yes --

ACTING PRESIDENT WINNER: Excuse me, Senator. Would you suffer an interruption?

Would the negative votes please kindly keep your hands raise raised so that we can get an accurate count. Thank you.

Senator Diaz, sorry.

SENATOR DIAZ: Yes, I'm voting yes on this bill.

And I also would like to remind my colleagues that it isn't fair to subject the judges to any more because of this game that we're playing here. I mean, the judges in the county of the Bronx work very hard, they are hard-working people who work real hard. I think that that's a county, as in Manhattan

and Brooklyn, that judges are so busy, they are so busy in those counties that they deserve those increases.

And I think that we should vote yes and give them those increases. And if any legislator here feels ashamed because they don't deserve it because they're not in their office and don't work and the committee never see them, that's their problem. But we have nothing to feel ashamed of. And the judges are waiting for us to move on this today.

Thank you, sir.

ACTING PRESIDENT WINNER: Senator Diaz is voting in the affirmative.

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

I feel, in my 30th session, obligated to explain my vote. Although frankly, to me, it's inexplicable. This is the fourth time I'm voting no on a bill I think is a good one and I cosponsored.

And I can't quite explain it. I look around and think maybe my boyhood dream has come true. When I was ten, I wanted to

run away and join the circus.

(Laughter.)

SENATOR CONNOR: And be that as it may, I vote no.

ACTING PRESIDENT WINNER: Senator Connor will be recorded in the negative.

Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

I'm shocked as I look to my left today. I had a bill that was sent to me on Thursday, and it said all of my colleagues were going to respond positively to all of the judges' requirements. I called judges that had called me, and I said: Colleagues on the left and the right got together and said you'll have a pay raise, you'll do this, you'll do that.

And then today I got this notice from Senator Smith that, well, all wasn't cozy. They were not going to sign on with the GOP.

Now, you know what I was thinking about? If I was a grammar school teacher, I would wonder what I'm going to tell the kids

today. On Wednesday, we're all together. On Monday, somebody gave us a lollipop and we were going to suck on the lollipop and be very, very nice. And that was our reward for reneging on our promise to those who have been communicating to us for over a year.

I think that this is crazy. I spent 23 years of my life in the military. And those who have been associated with it, including our leader, always knew that an officer's word was his bond.

Every one of you took an oath of office, and what you said when you went on that bill last week was that I will uphold my responsibilities and I will commit to do A, B, C.

And then this morning it was dark out, it was raining a little bit. And what did we find out? You can't be trusted. And if I offend you, that's your problem, not mine. But you said on Wednesday I will be a sponsor and I agree with A, B, C, D, all of it.

And, Senator Thompson, when you said you didn't know it was a pay bill and

that your people haven't had a raise in five years? We've had one raise in 19. You ought to have somebody check it for you.

I think this is a shame. You might think it's easy, you might -- I didn't interrupt you, Senator Smith. I don't think it's courtesy to interrupt my by talking to the Majority Leader at this time.

SENATOR SMITH: Yes, sir.

SENATOR LARKIN: I just think that what we're saying here is that we can't be trusted, we have no self-respect, I will do whatever the Governor tells me to do.

I remember just last year this side of the aisle would say: "Oh, you're doing it for Pataki." You have no idea how many times we whacked what Governor Pataki wanted because it wasn't in the best interests of the people of the State of New York.

I'm sick and tired of getting letters from judges and judges telling me you don't understand the cost of living, this, this, this. Well, you just had a chance. If it ever comes up again, I don't know if I'll vote for it.

But I'm going to tell every judge back home that the League of Women Voters said this is a good bill, it resolves the issues that we've dealt with. And when they say something, what happened, I'm going to tell them to call the Minority Leader or to call the Governor.

Because someone on Wednesday was a trusted friend of the people of the State of New York, and on Monday there's a question about who can be trusted.

ACTING PRESIDENT WINNER: Senator Larkin will be recorded in the affirmative.

SENATOR LARKIN: Yes, sir.

ACTING PRESIDENT WINNER: Senator Skelos.

SENATOR SKELOS: Thank you, Mr. President.

I'm going to support this legislation. And I want to thank the sponsor, Senator DeFrancisco, the chairman of Judiciary, who has worked with Chief Judge Kaye really for months, if not more, to bring this legislation that has been recommended by the Chief Judge of the State of New York, to

bring it to the floor for a vote.

And I want to thank Senator Bruno also. Because we talk about reform, and this legislation is probably one of the most important reform measures that we can bring to the floor because, number one, it truly makes our judiciary independent. We take the judiciary and the money that they make out of our politics up here that exists from time to time -- this takes it out of our politics and makes them truly independent.

And as was mentioned by Senator Bruno, Senator DeFrancisco, Senator Saland, this is not an automatic pay raise for the Legislature. This is a bipartisan, independent commission that will make recommendations -- yes, about the Legislature, but also in terms of the entire legislative branch.

Now, my colleagues in the Minority all signed on to this bill. My guess is by voting no, they want to go back to the old way: Voting after an election -- when the people have reelected them and they've gone out and said "I'll never support a pay raise,"

that they'll vote for it after an election. The old way.

This is a great reform measure, an incredibly important reform measure. But right now, from my good friends on the other side of the aisle, I just see hypocrisy. And unfortunately, there is an awful lot of hypocrisy right now in Albany.

You know, we have a Governor who's talking about campaign finance reform. And I have invites here for a million dollars: Bundle your money, give it to me. A million dollars so I can go to a barbecue, so I can go to a holiday party with his family. And on and on, depending on the amount. Absolute hypocrisy.

And then we have the budget process, where our good friends on the other side of the aisle said -- and over the years, it's different members; they're not here right now, Senator Krueger -- "I will never vote for a message of necessity, it's the wrong way to go."

And many of my colleagues here on the other side of the aisle signed a petition

by the Citizens Action Committee, I think it is, that they will not support messages of necessity.

What did they do during the budget process? The Governor said, "You're going to support my message of necessity." They did. They voted for his draconian cuts to our healthcare system.

And then when the Senate saved them from themselves and protected our nursing homes and our hospitals so that we can get quality care, what did they do? They voted for it. And I guarantee you press releases went out how they saved the hospitals and the nursing homes.

And they voted against school aid increases throughout the state. And what did they do? I'm sure put out press releases, when the Senate Majority corrected the inequities of the Governor, and said we were there, we did it.

So I would hope -- because there's still time to change your vote. Be independent. Don't be mice. Be independent. Vote your conscience because you know it's the

right thing to do. You know it's the right thing to do to support this commission. So please. We have a little bit more time. Please, reach inside of you, find your conscience, find your pride, do the right thing. Be reformers and support this legislation.

Mr. President, I'm going to vote aye on this legislation.

ACTING PRESIDENT WINNER: Senator Skelos will be recorded in the affirmative.

Senator Parker.

SENATOR PARKER: To explain my vote.

ACTING PRESIDENT WINNER: Senator Parker, to explain his vote.

SENATOR PARKER: First, Mr. President, let me thank Senator Skelos for his great revisionist history. And it's nice to have a perspective on history and what has happened here.

The reality is that we're in the business of government, where the process is as important as the outcome. It is not simply -- the ends don't necessarily always

justify the means. And so it's important that when we do things, that we look at how we're doing things.

The reality is this conference has been at the forefront of reform for at least the four years that I've been here, for at least that time. And all the things that we're doing now that we have been partnering with the Governor on doing, they're finally coming to the fore because we finally have another partner in government who understands how important reform is.

And, frankly, because you lost some seats based on the fact that your conference did not understand what reform was. And because, when you went to Nassau and tried to fight Craig Johnson, who was a real candidate for reform, why he's a member of the Senate and your candidate wasn't.

The reality is we have been here on these issues year after year after year. And when it came to campaign finance reform, we were there. When we talked about how we reformed the rules in this body. When we talked about how you in fact need to look at

lobbyists and the influence that lobbyists have on this body and the government, we were there.

And go check the record. You can check newspaper records, you can check bills, you can look at our petitions to discharge bills out of this actual body that your conference voted against.

And this is another example when we're saying put the process first. There are people -- our constituents do not trust us. Why? Because year after year after year, bad process and bad bills have come out of this Legislature.

This is an opportunity for us to do what we need to do which is right. And not that this is a bad bill. This is a very, very good bill, and nobody in this body is saying it's not. We're simply saying that the process is important. It's important to show people that before we took care of some of the intricate matters, that we took care of the broad scope of campaign finance.

I am amazed that nobody in here is appalled by soft money and what effect soft

money has on our elections. I'm appalled that nobody here really is scared to limit their contributions so that we don't have the largest contribution limits in the entire country.

It's absolutely ridiculous how much money we spend on campaigns. I frankly would like to spend less time raising money and more time servicing my constituents. Now, that may not be the case for everybody here; let me speak for myself. And so if you want to go around and spend your time raising money instead of bringing back healthcare and education and housing, then you should do that.

But I for one want to vote for real reform and have an opportunity to bring a campaign finance bill that's going to have a significant impact on making sure that this government has integrity. That's with an "I", gentlemen and ladies. Integrity. We need to bring that back to this body.

And really, by bringing that campaign finance bill to this floor and having an opportunity to vote on that, we're going to

do this.

And this bill can always be done. This bill can always be done. I mean, we have, you know, eight weeks left after this week to take care of this. So let's table this now, because being that we have time, we have time to table this right now. Bring the campaign finance bill to the floor. We'll vote on it, pass it, and then we'll pass this bill. In fact, we can do it in the same calendar. And I'm sure if this number came before that number, we'd vote for that and then we'd vote for this.

So I applaud your efforts to become reformers. Welcome aboard. And now let's drive on to the future and reform this Legislature the way we need to.

I'll be voting in the negative.

ACTING PRESIDENT WINNER: Senator Parker in the negative.

Senator Alesi.

SENATOR ALESI: Thank you, Mr. President. This couldn't be a more timely opportunity for me to speak on this bill and explain my vote.

Senator Parker just said when it was time for this thing, they were there. When it was time for that thing, they were there. When it was time for this thing, they were there. When it was time for that thing, they were there. When it was time to sponsor the bill, they were there. When it was time to vote for the bill, they're on the second floor.

(Laughter.)

SENATOR ALESI: I know I am, Mr. President and my colleagues. I would just like the record to show that I voted yes before I voted yes.

(Laughter.)

ACTING PRESIDENT WINNER: Senator Alesi will be recorded in the affirmative.

Senator Thompson, to explain his vote.

SENATOR THOMPSON: Let me just say, Mr. President, I think you have done a very good job of trying to keep this meeting moving along.

But one of the things I think is also important to note is that there are other

things beyond this bill that still need to be changed as well.

And so when we talk about looking at groups like the League of Women Voters, they put out an annual legislative guide. And I would just say that the folks across the aisle, as you think about holding up their banner on this issue, why don't we also take a careful and critical look at some of the other issues that they have put forward for many years.

And I think that that's something, as we talk about being progressives, we talk about being for reform, I think we ought to take a look at that as well.

I am opposed to this bill until we separate them. I do believe -- even though it would be a difficult vote, Senator DeFrancisco, given the fact that we do have a control board in the City of Buffalo and the County of Erie. But I could, under the right circumstances, could see supporting the judicial pay raises.

But I cannot support, at this point in time, voting for that commission. I will

not do that under any situation right now.

Thank you.

ACTING PRESIDENT WINNER: Senator Thompson will be recorded in the negative.

Senator Serrano.

SENATOR SERRANO: Thank you, Mr. President.

I usually don't speak very often on the floor, and all of my colleagues know that. But even I am taken aback at the level of sarcasm that we're hearing from the other side. We're supposed to be adults here and have graduated, I hope, to a level of civility in which we can have a discussion and a disagreement, even, without this level of sarcasm.

But I think we should be very clear -- and I want to be very clear -- that, Senator DeFrancisco, I think that this is a good bill. But things have changed in that we have now an opportunity to put forth additional reforms.

And this is what the voters have asked for. The voters have said, time and time again, that there are certain items of

reform that need to happen before we move forward with anything else, especially something like pay raises, which I support.

So reform first. And I think the Governor is right. And I think for a reformer like myself, having this Governor is in many ways a dream come true, because he's championing the issues that we all care about.

So I think that this is really not a level of hypocrisy, but just us taking advantage of an opportunity. And we should always take advantage of an opportunity to put forward additional reform, because the people of New York State have said that they do not believe in this legislative body anymore. And I for one care about the work that I do. And reform first doesn't just help us, it helps all of us on both sides of the aisle.

So I would hope that, before we start calling names and engaging in finger-pointing, that we think about the motives behind this and the motives of reform first.

Thank you.

ACTING PRESIDENT WINNER: Senator

Serrano, how do you vote?

SENATOR SERRANO: No.

ACTING PRESIDENT WINNER: Senator Serrano will be recorded in the negative.

Senator Volker, to explain his vote.

SENATOR VOLKER: Mr. President, I usually don't speak on what amounts to a -- this is a very political issue here.

(Laughter.)

SENATOR VOLKER: But I have to say, Senator Parker, I heard the New York Times talk about campaign financing in this state. It's all nonsense. I mean, there are some states don't have any campaign finance laws. We don't have the worst campaign -- that's nonsense. It's always been nonsense.

In fact, one of the interesting issues about that is it's a question of why certain people are not in the bill, certain groups, while others are. That's the McCain-Feingold problem, and why it's going to probably be thrown out. Because certain groups are included in the -- by the way, they're conservative groups. The liberal

groups are left out there. Isn't that interesting? But that's beside the point.

This probably, by itself -- forget all the other collateral stuff -- is the most important reform we will do this year. And we will do it. It will be done before this year is out, I firmly believe.

Why? Because for one thing, this Legislature has been caught between judicial hypocrisy and gubernatorial hypocrisy. And I'm not talking about this Governor. I'm talking about the nonsense that's been happening to us in the courts, where our power has been dramatically lessened with case after case that the Court of Appeals has heard. We can't forget that. I can't forget it.

And I resent the fact that the media had gone along with that. I know they don't particularly like us. This is a democracy; that's the problem. They would prefer some sort of a monarchy, it seems like. And I'm the first one to say that.

But I want to tell you something. It isn't just the legislative part of this, it is the judicial part of this. The judiciary,

despite the fact they haven't acted very well -- and I think we know that, and especially downstate. Even upstate, some judges have done some dumb things, and we know that.

They're right, though. They're right that if we're going to have an independent judiciary, we need to move on. And we need to pay them properly. And in the future, we should have a mechanism so this situation doesn't happen again.

That's the real issue here. I mean, from my perspective, it's the right thing to do. And one of the problems with this Senate -- and I like to think the Senate Majority, but normally both sides -- we've always had a tendency to do the right thing, even though it sometimes is politically not the best thing to do.

I don't know how many times I've heard people say to me "Why is it we always have to be the ones to do the right thing?" The answer is, it's our destiny to do it. And you eventually, all of you, I believe, you will vote the right way. Maybe not today, but

in the future you will. Because it is the right thing to do, it is reform, and it should be done.

ACTING PRESIDENT WINNER: How do you vote, Senator Volker?

SENATOR VOLKER: I vote aye.

ACTING PRESIDENT WINNER: Senator Volker will be recorded in the affirmative.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President.

I hadn't intended to speak on the issue. I was going to vote aye, and I will vote aye. But what I'm hearing is kind of a change in comment here. I'm hearing a call for reform, yet it isn't a problem that the Legislature can be blackmailed into voting the way a Governor, regardless of what party, wishes.

We're supposed to be an independent body here. We're supposed to be independent, think for ourselves and not be held hostage by the executive branch for any reason, pay raises or otherwise.

This is just the first time. Every issue has become linked. Threats, ultimatums. Don't vote for my bill by 3 o'clock? If you don't agree with me, I'll go into your districts and campaign against you.

Well, the Governor went down to my district. I'm up here legislating; 200 miles away in my district, he's down attacking me for not supporting legislation that he's pushing for finance reform. While he's sending out notices for million-dollar fundraisers, which do the opposite things of what he's saying. Talk about hypocrisy.

I don't understand this. If we're supposed to do something independent, if we're supposed to be a Legislature, then let's act like one. When George Pataki did something we thought was wrong, this side of the aisle voted to override his vetoes in the budget process. We were joined by our colleagues.

Mr. Spitzer, Governor Spitzer is doing something wrong. He wants to hold your vote hostage. He wants to try to roll you every time you disagree with him. That's wrong. If he disagrees and he wants to

campaign, fine. But that shouldn't buy your vote. That shouldn't hold up your vote. Your vote should be on behalf of the people of your district, on behalf of the people of this state. And that should be the only issue in your mind when you are voting, not whether or not you're going to get a pay raise.

When we negotiate and when we work together, we get budget reform, we get ethics reform, we did the bill on loans, the loan scam that the Attorney General pointed out. We can do all these good things when we work together in an appropriate manner, showing respect for all sides.

Not when you're being held up, not with a gun to your head, not by being blackmailed. This isn't the way to govern. This is not the way to govern.

And, you know, when you give your word, you should keep it. Sixty-two names are on this bill. There should be 62 votes aye.

I vote aye.

ACTING PRESIDENT WINNER: Senator Marcellino will be recorded in the affirmative.

Senator DeFrancisco, to close.

SENATOR DeFRANCISCO: I attended the Law Day ceremonies today at the Court of Appeals. And one of the main things that Judge Kaye talked about was a pay raise and also the process that's in effect now is totally dysfunctional and is something that has to be changed.

And an earlier speaker indicated that process is important. Well, if this bill doesn't go through the Senate and the Assembly, then the process will continue to be the dysfunctional process, as labeled by me and the chief judge and I think everybody in this chamber.

So process is what this bill is all about. It's about a pay raise for judges and process from this point forward for everyone else. To make it clear, the Legislature cannot possibly get a pay raise until January 1 of 2009, and that's only if an independent commission recommends it.

So the point I'm trying to make is that this is a true reform, recognized by recognized by many as a true reform. And to

suggest for a moment that we have to wait for other reforms where there's no agreement -- when you've got one that works that everyone agrees to right here and now, ready to go -- I think is a big mistake.

Secondly, unlike one of the prior speakers, I don't think it's going to get done this year. If this bill doesn't get done, I don't see it happening. I don't see this process changing this year, and I don't see the process changing next year. And I've been involved in this legislation from Judge Kaye for a couple of years now. I don't see it happening.

So if that's the way the process is going to go, I want to be recorded yes for reform today. And hopefully the Assembly will see that this is a good bill and pass it and get on with it and get on with other issues that are as important to this Legislature.

I vote aye.

ACTING PRESIDENT WINNER: Thank you, Senator DeFrancisco.

Senator Duane.

SENATOR DUANE: Thank you,

Mr. President. With apologies to Senator DeFrancisco. I'm afraid that my desire to speak wasn't noticed.

But I don't want to miss the opportunity, because I do -- I have a confession to make. The fact is, I changed my mind. I changed my mind.

If Governor Spitzer thinks that he can put real campaign finance reform on the table and get it accomplished at the same time, you know what? I'm going to give him the benefit of the doubt. If he thinks he can bring the five leaders or six leaders together, you know what? I'm willing to give him a little bit more time. I'm going to give him the benefit of the doubt.

I mean, there are things that I want to see happen. The most important thing to me, and I know not everybody agrees with this, is to try to replicate what the City of New York did with their campaign finance reform and put public funding in. It's very, very important to me. I think that that would be very helpful.

I know there are people around the

state that don't necessarily agree with that, that don't want public dollars used for that. But I think it's a very good use of public dollars. We disagree all the time on how public dollars should be spent.

I don't like tying, you know, something to something else. I didn't like it last semester when we were going to tie civil confinement to pay raises, and we ended up with what I think is bad civil confinement policy. We didn't get pay raises anyway.

That's Albany. I've had nine fun, dysfunctional years here in Albany of tying things together. Every couple of years I vote on extending the Loft Laws and Quick Draw at the same time. It doesn't make any sense to me at all, but that's the choice that I'm provided with when it's time for me to vote.

You know, the other thing I've realized here is that nothing is ever really over. Right? Two things happen. You wait a long time for everything, and it's never really over. Rockefeller Drug laws, I waited. We just did a teeny, tiny bit; it's not over. There's more to do. Death penalty is not even

over yet. DNA, gay rights, on and on and on.

You wait, then you get a little bit; you wait, you get a little bit. Even mental health parity is not completely done. Something was done, but it's not all done. Nothing is ever over in Albany. Nothing is ever, ever finished. Maybe that's the way government is supposed to be. Maybe the job -- or probably the job is never done.

So, you know, it's quite possible that my vote today is going to put me in purgatory for a little extra time. But it's possible by the end of this year that my time in purgatory will actually be decreased. I'm going to vote no, Mr. President, and hope that I will be redeemed sooner rather than later.

Thank you.

ACTING PRESIDENT WINNER: Senator Duane will be recorded in the negative.

Are there any other Senators that wish to be explain their vote?

Senator O. Johnson.

SENATOR OWEN JOHNSON: Mr. President, this demonstration in fabricating excuses really hurts me personally to see it

take place, to see the demeaning of this side of the aisle by nothing, emanating from the second floor, which has turned their votes around.

This bill has been on the floor for a year and a half, under consideration. Everyone knows it's the right thing to do. But because someone wants to exercise his power to take away the power of some of the legislators to exercise their independent judgment on behalf of the state, on behalf of their constituents -- and having it turn around is tragic. It's demeaning. I can't say any more.

That we are three separate bodies, and we should function as a separate body and use our own best judgment for our constituency. We shouldn't be bullied by anyone. And it's tragic that this happened today. To sit here and witness this and listen to this hurts me and really hurts democracy in this state.

I vote aye.

ACTING PRESIDENT WINNER: Senator Johnson will be recorded in the affirmative.

Senator Smith.

SENATOR SMITH: Yes, thank you very much, Mr. President.

And let me thank all my colleagues on both sides of the aisle for expressing in a very open way their feelings about an issue that, as Senator Duane said, I don't believe is dead. It's not over.

But more importantly, I don't know if the fact that we have the right to change our mind, just like anyone over on the other side of the aisle has the right to change their mind -- I don't think you should hold or condemn anyone to that fact. I think that's just a right that we have as legislators.

Whether we changed our mind because we had additional negotiations or because things change -- that happens. That happens. What I think is more important, what we should be talking about and hopefully we will do this after, is how do we get there.

There is not a person in this room that at some point in time has not changed your mind. And I don't think you should be vilified for doing so. Yes, you may have a

difference of opinion. Yes, you may feel as though, because we don't agree, that you have that right to justify what you say about us.

But the bottom line is, you know, don't take it this personal. You should not take it this personal. The judges will get their raises at some point. The legislative commission will come to fruition.

We want to make sure that campaign finance reform, which was under discussion up until the end of last week -- which was at the time we went on the bill, prior to that discussion ending. And so it stopped, and so we stopped. But I don't think you should take it that personal.

Don't take it that personal. Every single member here on this side of the aisle is just as bright, is just as smart as the members on that side of the aisle. Each one these members have their own right and capability of doing what they think is right. You want to throw the Governor in the mix and say the Governor made us do this, the Governor made us to do that. I mean, we can say that Pataki made you do this, Pataki made you do

that, you were impetus as well. I mean, that gets us nowhere.

All I'm saying to you is Senator Bruno and I continuously have very good dialogues. Do we agree? No. Do Shelly and I agree all the time? No. Do the Governor and I agree all the time? No.

(Reaction from the floor.)

SENATOR SMITH: But the bottom line is -- the bottom line is -- the bottom line is -- and that's okay. You can laugh at Malcolm. Fine, Malcolm's in the middle. But you know what? It's what happens at the end. It's what happens at the end.

And I will tell you as I stand here, and Joe and I will get through this. You may not get there with us, but Joe and I will get through this. And what will happen at the end of the day is you will come back and say: Joe, you know what? This is a better deal. You know why? Because, Joe, I'm going to protect some of the members in upstate New York that have some challenges like Senator Volker. They just chastised him in the papers. They may chastise Senator

Robach, they may chastise some of the other members. All I'm saying to you is, as a body we can get there together. And as a body we will get there together.

I'm going to be voting no, not because I don't think it's the right bill -- DeFrancisco, you did a great job on the bill. A lot of effort. And I'm saying to you, at the end of the day, before we leave here, we should all be in the right place together once we complete the campaign finance reform bill, which all of us know is important to the people of our districts.

So I'm voting no. I'm sorry that many of you feel so personal about it. I didn't take this personal. I don't take the criticism personal. That's the price of leadership. That's what you are over here, you've got 29 leaders over here. We're prepared to accept the criticism. But we know at the end of the day we will get it done.

Thank you.

ACTING PRESIDENT WINNER: Senator Smith will be recorded in the negative.

Senator Bruno.

SENATOR BRUNO: Mr. President, I hope I stand to really close the discussion and the debate.

And by way of my vote, I'm going to vote in favor, of course.

But I want to just share how disappointing what is happening in this chamber this afternoon is to me personally. And it ought to be to you, too. It ought to be to you, too.

Because, Senator Smith, in all due respect to you and to your colleagues, how do we govern? How do we govern? When we shake hands and we make an agreement with you, with the Speaker, to move a bill and then -- yes, you have a right to change your minds. Yes, you do, Senator. Anybody does.

But you don't, I believe, have a right to walk away from people who send you here, elect you to be representative, and cave in to this Governor every time he intimidates you. I don't believe that you have a right to do that on every single issue.

You say you disagree with the Governor? You name one issue that you,

Senator Smith, have disagreed with this Governor.

We are not -- and I want to be clear on this, we're not going to take this issue up again in this chamber. Not while I'm here. We will not taking this issue up again. Why? Because we discussed this, and we agreed that this would be it. And I agreed with Speaker Silver that this would be it.

And then I understand you meet with the Governor and he says: No, I will represent your interests, I will speak for you, I will speak for the Speaker.

Then how on earth can we govern? How can I govern with you? How can I govern with the Speaker? We are going to deal with the Governor and no one else. I'm sorry to say what I'm saying, but the Governor has said he speaks for you. And he says: I speak for the Speaker. That's wrong.

We are a separate branch of government, duly elected to be representative. And frankly, you ought to be embarrassed and you ought to be ashamed of yourself.

We can be collegial. We are

friends. And as the Governor says, we'll have our differences and then we'll laugh and tell jokes after. We can do that. But this is serious, serious, serious business.

I'm going to tell you now -- I've been in this business a long time -- I am not going to go behind closed doors and discuss campaign finance reform. Not unless this Governor cancels his birthday million-dollars-to-get-in party. Okay? If he cancels that, I would like to publicly discuss campaign finance reform. And we can do a bill if he cancels his million-dollar fundraiser. Million dollars, half a million, quarter of a million. That is, as has been said, hypocritical.

And we're not going to go behind closed doors and discuss that and link it to the issue that's before us. And you know that's what happened. This got linked. This bill that's before us, that we unanimously agreed on, got linked, got linked by the Governor dictating that this would be linked to campaign finance reform and maybe some other issue.

That is wrong, Senator. As a friend, as a colleague to all of you, I am saying it is wrong. And to this Governor, he is wrong to take the authority that is vested in you, when you take your oath of office, and say: I will dictate what happens and not you, as representatives of your constituency.

And, Senator Diaz, my congratulations to you for having the character, the courage, the integrity to stand up and speak on behalf of yourself and the constituency that sends you here.

And I can say now, you ought to be mortified and embarrassed when you put your name on a bill and then in a cavalier way say, Oh, our whole conference -- Senator Smith -- changed their minds. Changed their minds why? Because the Governor changed it for you over the weekend. It's wrong.

Mr. President, it is wrong. I could stay here and go on at great length and repeat: It is wrong. But I want to be clear. This bill is not going to come back in any form on this floor this session.

So you vote the way you want to

vote. This doesn't make it through the Assembly, well, then, you answer to the judges, to Judge Kaye -- who spent years negotiating this with the Legislature, years -- why it doesn't become law. That will be your responsibility and not ours.

And I want to thank my colleagues for having the courage of their own convictions.

Thank you, Mr. President.

ACTING PRESIDENT WINNER: Thank you, Senator Bruno.

(Applause.)

ACTING PRESIDENT WINNER: Senator Bruno will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 712 are Senators Adams, Breslin, Connor, Dilan, Duane, Gonzalez, C. Johnson, Klein, L. Krueger, Montgomery, Oppenheimer, Parker, Perkins, Sabini, Sampson, Savino, Schneiderman, Serrano, Smith, Stachowski, Stavisky, Stewart-Cousins, Thompson and Valesky.

Absent from voting: Senators

Huntley and C. Kruger.

Ayes, 34. Nays, 24.

ACTING PRESIDENT WINNER: The bill is passed.

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

SENATOR BRUNO: Thank you, Mr. President.

Is there any further business to come before the Senate at this time?

ACTING PRESIDENT WINNER: No, there is not.

SENATOR BRUNO: There being none, I would move that we stand adjourned until tomorrow, Tuesday, May 1st, at 3:00 p.m.

Thank you, Mr. President. I move we stand adjourned.

ACTING PRESIDENT WINNER: Thank you, Senator Bruno.

On motion, the Senate stands adjourned until May 1st at 3:00 p.m.

(Whereupon, at 5:00 p.m., the Senate adjourned.)