NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

December 13, 2007

3:10 p.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Will everyone please rise and join with me in reciting the Pledge of Allegiance.

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

THE PRESIDENT: Leading us in our invocation today is the celebrated minister from Mother Theresa Community in Albany, and runner-up for the Nobel Peace Prize this year, Father Peter G. Young.

REVEREND YOUNG: Thank you.

Let us pray.

As we gather on this autumn snowy day in a special session, we will attempt to put closure on some outstanding legislative year-end issues to assist our New York State citizens.

During this special holiday season, we warmly greet everyone in a festive spirit of goodwill. May we extend that joy into the compassion of our legislation for those that are seeking shelter and food, so that they too can celebrate with us.

We are happy to call together the providers so that they can handle the disenfranchised with legislative efforts that will remove the barriers and obstacles of bureaucracy so that they can fulfill, O God, Your call to respect all of Your creation.

May we remember Dave Cole, who served here in this Senate chamber for so many years so well all of our members.

Amen.

THE PRESIDENT: Thank you, Father.

As we assemble here on this cold, snowy day in autumn, we ask for the reading of the Journal.

THE SECRETARY: In Senate, Wednesday, December 12, the Senate met pursuant to adjournment. The Journal of Tuesday, September 11, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: 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 Robach.

SENATOR ROBACH: Yes, Mr. President. I move the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Bills 2054 and 2711, by Senator DeFrancisco.

THE PRESIDENT: So ordered.

SENATOR ROBACH: Mr. President, I also move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Bill 2400 and Senate Bill 2828, by Senator Trunzo.

THE PRESIDENT: So ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Farley, I wish to call up Senate Print Number 920, recalled

from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 273, by Senator Farley, Senate Print 920, an act to amend the Tax Law.

THE PRESIDENT: Senator Fuschillo.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FUSCHILLO: I now move to commit the bill to the Committee on Rules.

THE PRESIDENT: So ordered. Thank you, Senator Fuschillo.

SENATOR FUSCHILLO: On behalf of Senator Maziarz, I wish to call up Senate Print Number 1884A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1496, by Senator Maziarz, Senate Print 1884A, an act to allow Jerry R. Sullivan to file.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR FUSCHILLO: I now move to recommit the bill to the Committee on Rules.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

On behalf of Senator Alesi, I wish to call up Print Number 5229A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 2052, by Senator Alesi, Senate Print 5229A, an act to amend Chapter 530 of the Laws of 1988.

SENATOR NOZZOLIO: Mr. 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.

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

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

SENATOR NOZZOLIO: Mr. President, I now move to recommit the bill to the Committee on Rules, with instructions to said committee to strike the enacting clause.

THE PRESIDENT: The bill will be recommitted to the Committee on Rules, striking of the enacting clause so ordered.

Thank you, Senator Nozzolio.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time adopt the Resolution Calendar, with the exception of Resolutions 3812 and 3813.

THE PRESIDENT: Senator Bruno moves to adopt the Resolution Calendar, with exceptions of Resolutions 3812 and 3813. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: All opposed, nay.

(No response.)

THE PRESIDENT: Motion carries. The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Resolution 3812, have its title read, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read Resolution 3812 by title.

THE SECRETARY: By Senator Smith, Legislative Resolution Number 3812, commemorating the 40th Anniversary of the SUNY Educational Opportunity Program.

THE PRESIDENT: We are considering Resolution 3812. All those in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution carries. The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Resolution Number 3813, have the title read, and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 3813, commending AARP upon the occasion of celebrating its 50th Anniversary.

THE PRESIDENT: On the resolution, all those in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution carries, and now AARP can have an AARP card.

Senator Larkin.

SENATOR LARKIN: Mr. President, could we open that up, for those who might want to get on that?

THE PRESIDENT: Senator Bruno, Senator Larkin has asked that we open the resolution so that all members of the Senate

may sign and those not wishing to sign may indicate so at the desk. Is that approved with you?

SENATOR BRUNO: Can we have that happen, Mr. President? Anyone caring not to be on the resolution, please notify the desk privately.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator Larkin.

All those who would like to not be listed on the resolution may indicate at the desk. Otherwise, the sponsors will be unanimous.

The chair recognizes Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to the reports of standing committees and take up the report of the Judiciary Committee.

THE PRESIDENT: We will return to reports of standing committees.

The chair recognizes Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you.

I would like to move the nomination

of the Honorable Carmen Beauchamp Ciparick, of New York City, as associate judge of the Court of Appeals.

And there was a committee meeting of the Senate Judiciary Committee earlier today which found that Judge Ciparick had all the qualifications necessary for a Court of Appeals judgeship. In addition, she's served for the last 14 years on the court with distinction.

And I'm very proud and very pleased that the Governor reappointed her for that position, and I urge all of you to support this nomination and confirm her today.

Thank you.

THE PRESIDENT: The Secretary will read the nomination.

THE SECRETARY: Senator DeFrancisco, from the Committee on Judiciary, reports the following nomination.

As associate judge of the Court of Appeals, Honorable Carmen Beauchamp Ciparick.

THE PRESIDENT: Senator DeFrancisco, to move the nomination.

SENATOR DeFRANCISCO: I thought I

already did. But if I didn't, I'll move her, and if I did, I'll move her again.

THE PRESIDENT: On the nomination, the chair recognizes Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

Very briefly, I rise just to thank the Governor for reappointing a fine judge of the Court of Appeals. I think we are going to be talking about the role of the judiciary in New York and in the scheme of American democracy today in a variety of contexts.

But this is a judge who demonstrates that great work and progressive thinking on the judiciary can do a great deal for all the people of New York. This is not a ivory tower jurist. This is someone of whom we can all be proud.

And it is my pleasure to support this nomination, and I urge everyone to vote to return her to the bench where she has served so ably for so long.

Thank you.

THE PRESIDENT: Thank you,

Senator Schneiderman.

The chair recognizes Senator Perkins.

SENATOR PERKINS: Thank you very much.

I just want to take a quick moment to express my support for this outstanding individual, this outstanding public servant that I've had the honor of working with since 1982, more or less, and have followed her career and have had the opportunity to support her career.

And you know, she has really exemplified the best that we could offer in terms of this process, not only in terms of what she has done as a jurist but also in terms of the role model that she exemplifies for those of us from the neighborhood.

And so I'm honored to second this and look forward to her continuation in her outstanding career.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Mr. President, very quickly.

We figured out, actually, Judge

Ciparick and I, that I was the only person that voted for her 14 years ago. It appears I'm the only person left from that Judiciary Committee.

And I realized also, when I looked at her background, that she must have been 14 years old when she first became a judge, because she's been a judge for 37 years.

So I just do want to say that she's not only an excellent jurist but a fine person. And I voted for her 14 years ago, and I'll do the same again.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

I also rise to support Carmen Ciparick and to say while Senator Perkins so eloquently described why she is such a valuable judge on our Court of Appeals and how important it is that Governor Spitzer has nominated her for a further term, when Senator Perkins talked about her coming from the neighborhood, she actually comes from my neighborhood and lives in my district.

And so I am delighted to share her

with Senator Perkins historically, but to congratulate her and to thank her for being willing to sit yet again on the Court of Appeals. Because as we all know, they face a lot of controversy. This is not an easy job, and there's a lot of pressure placed on our judges today.

And it is so critical that we continue to have independent judges who understand the law and their role in protecting us all. And she has truly proved to be a heroine and hero of that mission.

So I'm very proud to have her as a constituent and delighted that she will be continuing on the Court of Appeals.

Thank you, Mr. President.

THE PRESIDENT: Senator Gonzalez.

SENATOR GONZALEZ: Thank you, Mr. President.

I too rise in support of the Honorable Carmen Beauchamp Ciparick. I was part of the process back 14 years ago in reaching through her selection process, and she has made us proud in those 14 years.

And I congratulate the Governor for

renominating her, and I stand proudly in support of this nomination.

Thank you, Mr. President.

THE PRESIDENT: Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

I get up most reluctantly. I don't want to be responsible for raining or, as the case may be, snowing on the judge's parade today. So perhaps this will be considered a drizzle or a snow flurry.

I'm not going to go into my reasons. I spoke briefly at the Judiciary meeting. Suffice it to say that I have scrutinized over the course of the past several nominations what I thought was the relative positions of the nominees to the Court of Appeals with respect to issues involving the distinctively different roles between the legislature and the judiciary.

And while I certainly have heard nothing but kind and gracious things spoken of Judge Ciparick, and she seems, by all estimates, to be an extraordinarily kind and gracious person -- somebody whom, by the way,

I did support when she came before this house initially -- I have found that there's been too many opinions coming from the Court of Appeals in which I feel that the role of the Legislature is being usurped.

And for that reason, I am going to respectfully vote in the negative.

Thank you.

THE PRESIDENT: Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I rise also to say what a terrific judge Carmen Beauchamp Ciparick has been. And it's been an honor to support her for -- I'm not going to say how long, but a while.

And I also have to disclose that I served on a jury in a case where the judge was the judge, and I wasn't thrown off. But I did make everyone stay overnight at the Milford Plaza, which they don't do anymore. I held out for a while, but -- my colleagues would be shocked to hear this -- I ended up voting guilty. Can you imagine? I know. I know. But the judge knew that I could be fair.

And I never understand why that

defendant didn't take a plea bargain, to tell you the truth, because he was really -- there was no way around it. I felt bad for him. But what are you gonna do.

Anyway, you know, she was worth searching for on the ballot in 1984? 1983? '83. You had to hunt her down. And you know what? The voters of Manhattan hunted her down.

And then she was hunted down to serve on the Court of Appeals. And I've agreed with every decision you have made there.

So I'm thrilled that we get to keep you so you get to kick us around for a little while longer. Congratulations.

THE PRESIDENT: Senator C. Johnson.

SENATOR CRAIG JOHNSON: Thank you, Mr. President. I too rise to congratulate and commend Judge Ciparick.

Like Senator Duane, I'll make a full disclosure. But the congratulations is one from St. John's Law School alumnus to a St. John's Law School alumna to join our

fellow alum, Thomas Jones, on the court. I thank you for putting in the hours and the dedication that you do for the Court of Appeals, and I just wish to say congratulations. Thank you.

Thank you.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. I rise to second the nomination of Judge Ciparick.

And I need to say, as I said this morning in the committee meeting, that in reading her record and listening to reports about her from other jurists in Westchester County and around the state, one of the things that became very clear is that for all of the kinds of decisions that she made, she is the kind of person and certainly the kind of judge that knows how to disagree without being disagreeable. And I said then and I say now that that's an art form that I am struggling hard to achieve.

Congratulations to you, Judge, and thank you for all the work that you have done

on behalf of the people of the State of New York and the justice that you have brought to your court.

THE PRESIDENT: Would any other Senator wish to be speak on the nomination?

Hearing none, the question is on the nomination -- we apologize.

Senator LaValle.

SENATOR LaVALLE: When you bring it to a vote, Mr. President --

THE PRESIDENT: We will bring it to a vote right now, Senator.

SENATOR LaVALLE: Would the record show that I am in opposition to the nomination.

THE PRESIDENT: Yes. We're coming to the vote now, Senator.

The question is on the nomination of Judge Carmen Beauchamp Ciparick to the New York State Court of Appeals. All those in favor please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Those opposed?

(Response of "Nay.")

THE PRESIDENT: The record will

reflect Senator LaValle, Senator Seward, and Senator Saland will be voting in the negative.

The nomination carries.

Judge Carmen Beauchamp Ciparick, who began her legal career at Legal Aid in 1967 and then in 1969 became associate counsel to the Judicial Conference, became an administrative judge in the Court of the City of New York in 1974, was appointed by Governor Carey in 1978 to be acting Supreme Court judge, and then was elected by many others, including Senator Duane, in 1983, to the New York State Supreme Court, and then in 1993 was nominated by Governor Mario Cuomo to the Court of Appeals, and this is her renomination.

She joins us this afternoon in the East Gallery. Her daughter and husband were unable to attend, but she is joined by several friends and colleagues.

Thank you for your outstanding service on the court in your first term, Judge Ciparick, and please accept the nomination of this body to serve for another term on the Court of Appeals.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a justice of the Supreme Court of the Second Judicial District, Honorable John A. Fusco, of Staten Island.

THE PRESIDENT: The chair recognizes Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, I would move the nomination of the Honorable John A. Fusco, of Staten Island, as a justice of the Supreme Court of the Second Judicial District. He currently serves as a surrogate, and he's being appointed to fill an unexpired term or to fill an opening on the Supreme Court.

Prior to being on the Surrogate's Court, he was a senior partner in a law firm on Staten Island for 25 years, and his best qualification is the fact that he was a solo practitioner for a period of time. And that's what we need more of on courts that hear cases and that try matters for the people of this state.

And the most important reason I'm moving his nomination is the former chairman of the Judiciary Committee called me about Judge Fusco last week, trying to find out what's going on because he wanted to get this done by the end of the year. And when Chris Mega speaks, I listen.

So I'm proud to move this nomination.

THE PRESIDENT: On the nomination, the chair recognizes Senator Lanza.

SENATOR LANZA: Thank you, Mr. President.

It is a distinct personal privilege and honor to rise in support of the nomination of Judge Fusco to the Supreme Court in the Second Judicial District.

I've known Judge Fusco for many years and have always admired the way he has served the people, the way he has always put the people first in his distinguished career as both a member of the City Council and, over the last nine years, as a Surrogate Court judge.

He possesses all the qualities and characteristics that you would want to see in a judge. He is intelligent, he is dedicated, he has the perfect judicial demeanor, he is compassionate, he is knowledgeable in the law. He has proven that over his lengthy career.

And it's really -- I want to thank Chairman DeFrancisco, Senator Bruno, and the Governor for recognizing that the people of Staten Island will best be served by continuing to have Judge Fusco serving them.

Again, I want to congratulate you, Judge Fusco, and thank the Governor, Senator Bruno, and Chairman DeFrancisco.

THE PRESIDENT: On the nomination of Judge Fusco, the chair recognizes Senator Savino.

SENATOR SAVINO: Savino.

(Laughter.)

SENATOR SABINI: Which one?

SENATOR SAVINO: Savino.

Thank you, Mr. President.

I also want to rise and congratulate the Governor on this appointment today. And I want to echo the sentiments of

my colleague Senator Lanza across the aisle on what an honor it is to be here today to say some kind words on behalf of John Fusco.

Staten Island is in fact a very unique place where Democrats and Republicans get along far more often than they don't. And earlier this year, both parties joined together to endorse Bob Gigante to succeed John Fusco as a surrogate for Staten Island.

Our happiness on behalf of Bob Gigante was only tempered by our sadness over the fact that we were losing John Fusco as our surrogate, sadly because he had reached that age of retirement. So you can imagine our delight when the Governor announced that he was going to nominate him for this vacant seat.

He's been a wonderful surrogate, a great public official, an amazing Staten Islander. And he has been a mentor and a power of example for all of us who came behind him as elected officials -- always quick with advice, never gratuitous, always with the interest of Staten Islanders in mind.

So I am so happy to be here today

to say congratulations to you, John Fusco.

THE PRESIDENT: And now the chair recognizes Senator Sabini.

SENATOR SABINI: Thank you, Mr. President.

I too rise in support of the nomination by the Governor of John Fusco as a justice of the Supreme Court so he can continue to serve the public of Staten Island as he's done so well as surrogate and as a legislator.

For those of that you aren't familiar with the workings of the New York City Council, their hearing structure is much different than ours. The hearings go on and on and on. And we allow anyone from the public to speak, anyone. And they do.

And what impressed me about serving with John Fusco in a body where Republicans were in a very, very distinct minority, where they had very little clout, and where Judge Fusco was, as Chairman DeFrancisco says, a single practitioner of law, with a law practice a good hour away from City Hall and an hour commute from City Hall if he just

wanted to go home -- yet at committee meeting after committee meeting, when the public droned on and on -- and we're paid to be there to listen, which is a good thing -- one of the few people who would stay was the guy with the longest commute and a guy who maybe could have done other things with his time, and that was Judge Fusco.

He always impressed me with not only his work ethic but his sincere concern for people in his district.

And as someone who represented a district distinctly different than his -- he could have done very well representing mine, and I could have done very well representing his -- he shared the passion of representing people that so many of us in public life do, but he cared even more than he was being held responsible to do. He could have won that district and come in every two weeks and cast his votes on the floor and gone home. He didn't do that. He didn't do that.

So he has my undying respect, and I'm delighted that I'm here to be in the chorus of support for the continued public

service of Judge John Fusco, and I'll be voting in the affirmative.

Thank you.

THE PRESIDENT: Senator Golden.

SENATOR GOLDEN: Thank you, Mr. President.

I too rise to congratulate a great man. And, Senator DeFrancisco, it sounds like he covered his base, Chris Mega; I don't think he left a person out. He called myself as well to say what a great man is becoming a judge today in Staten Island, and the great work and the great success that you've been able to achieve.

I worked with you in the City Council, and I've seen what you were able to do in helping turn the city around, and the state, and making it as successful as it is today in bringing down the homicide rates and the murder rates in the City of New York, increasing the opportunity for education and giving more opportunity for healthcare throughout the City of New York, fighting that landfill in Staten Island, and really doing some heroic issues on Staten Island that

really changed the course of not only Staten Island but that of the city and the state of New York.

I wish you and Mary, your family, your children, the greatest, happy, healthy holiest Merry Christmas, a good New Year. Congratulations. You're a good man.

Thank you. I vote aye.

THE PRESIDENT: Senator Maltese.

SENATOR MALTESE: Mr. President, I rise too to add my accolades to Judge Fusco.

Certainly his years in the City Council, the years as a law clerk, the years in private practice, certainly eight years known for his integrity, known for his dedication, recognized by the bench and bar as one of the finest judges and certainly one of the finest surrogates in the State of New York. A man who has given his life to the public over these many, many years.

I congratulate also the spirit of bipartisanship and nonpartisanship that enables us to do this today. This is a very good nomination for the Governor, for the Majority Leader, for the people of Staten

Island, first and foremost. I congratulate all in getting together to make this nomination and look forward to many, many years of service on the bench.

Congratulations to Judge Fusco. I plan to vote aye.

THE PRESIDENT: Thank you, Senator Maltese.

The chair recognizes Senator Duane, on the nomination.

SENATOR DUANE: Thank you, Mr. President.

I have to disclose that I served with Judge Fusco in the golden years of the New York City Council also. And did I not just get off the phone with Fred Cerullo, who I think is also a Staten Island person, who sends his regards.

And, you know, I'm glad that finally we were able to drag you up here to Albany so that you can suffer like the rest of us. Congratulations. I know you'll do a great job, as you always have.

THE PRESIDENT: On the nomination, all those in favor please indicate

so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Judge Fusco, through Senators Lanza, Sabini, Savino, and along with Senators Golden, Maltese and Duane, the Senate has unanimously confirmed the nomination by Governor Spitzer of your appointment to the New York State Supreme Court.

We know that you served as minority whip in the New York City Council from 1992 to 1998. We hope that you will bring that same strength to the Supreme Court of the State of New York.

Congratulations for your outstanding service, and best wishes on the court.

(Applause.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask for an immediate meeting of the Finance Committee in the Majority Conference Room, and, following that, a meeting of the

Rules Committee.

And while that is taking place, the Senate will stand at ease and reconvene immediately upon the committees making their reports.

Thank you, Mr. President.

THE PRESIDENT: Thank you, Senator Bruno.

There will be an immediate meeting of the Finance Committee in the Majority Conference Room, to be followed immediately by a meeting of the Rules Committee in the Majority Conference Room, Room 332.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:43 p.m.)

ACTING PRESIDENT LANZA: Senator DeFrancisco.

SENATOR DeFRANCISCO: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

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

(Whereupon, the Senate reconvened

at 4:45 p.m.)

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, for the report of the Rules Committee.

ACTING PRESIDENT WRIGHT: Reports of standing committees.

The Secretary will read the report of the Rules Committee.

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

Restored, Senate Print 6489A, by Senator Marcellino, an act to amend the Labor Law.

Reported, Senate Print 714, by Senator Breslin, an act to amend the Town Law;

1921, by Senator Robach, an act to amend the Penal Law;

6436, by Senator Libous, an act to authorize;

6458, by Senator Larkin, an act to amend the Education Law;

6486, by Senator Little, an act to amend Chapter 400 of the Laws of 2007;

6491, by Senator Morahan, an act to amend the Retirement and Social Security Law;

6493, by Senator Leibell, an act to amend the Labor Law;

6501, by Senator Flanagan, an act to amend the Economic Development Law;

6503, by Senator Marcellino, an act to amend the Environmental Conservation Law;

6512A, by Senator Larkin, an act to amend the Tax Law;

6513, by Senator Leibell, an act to amend the Tax Law;

6549, by Senator Fuschillo, an act to amend the Education Law;

And Senate Print 6550, by Senator DeFrancisco, an act to amend the Judiciary Law.

All bills ordered direct to third reading.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Move to accept

the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to motions and resolutions, I believe Senator Robach has a motion to make at this time.

ACTING PRESIDENT WRIGHT: Motions and resolutions.

Senator Robach.

SENATOR ROBACH: Mr. President, I wish to call up my bill, Print Number 1703, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number

1455, by Senator Robach, Senate Print 1703, an act to amend the Criminal Procedure Law.

SENATOR ROBACH: I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT WRIGHT: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

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

ACTING PRESIDENT WRIGHT: The amendments are received and adopted.

SENATOR ROBACH: I now move to recommit the bill to the Committee on Rules.

ACTING PRESIDENT WRIGHT: So ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to the reports of standing committees.

I believe there's a report from the Finance Committee at the desk, and I ask that it be read.

ACTING PRESIDENT WRIGHT: Reports

of standing committees.

The Secretary will read the report of the Finance Committee.

THE SECRETARY: Senator O. Johnson, from the Committee on Finance, reports the following nominations.

As a member of the Public Service Commission, Garry Brown, of Averill Park.

ACTING PRESIDENT WRIGHT: Senator Johnson.

SENATOR OWEN JOHNSON: Move the nomination.

ACTING PRESIDENT WRIGHT: Senator Bruno.

SENATOR BRUNO: Mr. President, the nomination before us has been submitted by the Governor. And this is a constituent of mine, Garry Brown, here with his wife, Linda.

Now, we're probably 10 or 15 minutes apart, up in the beautiful hills of Rensselaer County. And that by itself would probably qualify Garry for such an important position as a member of the Public Service Commission.

But the Governor, in his wisdom,

has recognized that these are challenging times when it comes to energy and all of the related subjects in New York State, so we need a real professional there.

Garry Brown is a professional -- academically, through the University in Plattsburgh, master's, 30 years of experience in energy and in the industry, in-depth as an analyst, as vice president of the Independent Power Producers, and now, with our support, to be confirmed for commissioner of the Public Service Commission.

Challenging -- nuclear, coal, hydro, wind, solar. One of the greatest needs we have in our lives is adequate power for energy, in industry and the professions, in you name it. So this is a challenging position at this time, a very rewarding position at this time. And we're indebted to Garry and his family for committing themselves to this public service.

So I am honored to move this nomination on behalf of Garry Brown and all the people of this state.

ACTING PRESIDENT WRIGHT: Any

other member wishing to be heard?

The question is on the nomination of Garry Brown, for appointment as a member of the New York State Public Service Commission. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The ayes have it.

Congratulations, Mr. Brown, you have been confirmed by the New York State Senate. On behalf of its members and the Majority Leader, Joe Bruno, we extend our congratulations to you and your lovely wife, Linda.

And from a personal perspective, as chair, I'm very pleased that we were able to confirm your nomination. Every success to you, Garry. Thank you.

(Applause.)

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: As Welfare

Inspector General, Sean Courtney, of Forest Hills.

ACTING PRESIDENT WRIGHT: Senator Johnson.

SENATOR OWEN JOHNSON: Move the nomination.

ACTING PRESIDENT WRIGHT: Senator Johnson moves the nomination.

Senator Skelos.

SENATOR SKELOS: Mr. President, at our recent Finance Committee meeting, I had asked certain questions of the nominee. And in light of the fact that we have to vote today, so we can't necessarily wait for an answer, I did not, in my opinion, receive an adequate response concerning Governor Spitzer's proposal to eliminate finger-imaging for certain food stamp recipients.

I think it's very important that there be finger-imaging. It's the front line of defense in terms of avoiding fraud. The nominee in October had indicated the same.

So it is my position at this time that I cannot vote for the nominee, although as I've said with other nominees, such as the

chairman of the MTA, because I was concerned about fares -- and certainly I was proved correct there -- I look forward to working with him, even though at this time I cannot vote for the nomination.

ACTING PRESIDENT WRIGHT: The record shall so reflect.

Any other member wishing to be heard on the nomination?

The nomination of Sean Courtney as Welfare Inspector General is before the Senate. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Nay?

(Response of "Nay.")

ACTING PRESIDENT WRIGHT: Senator Skelos.

SENATOR SKELOS: Mr. President, if the record will indicate that I have voted in the negative.

ACTING PRESIDENT WRIGHT: The record will indicate Senator Skelos has voted in the negative.

The nomination is approved.

Mr. Courtney, congratulations extended to you. There you are, thank you.

Mr. Courtney is joined by his wife, Carol, and his daughter, Alison.

(Applause.)

ACTING PRESIDENT WRIGHT: On behalf of Senator Bruno and the entire New York State Senate, we extend our congratulations to you on your confirmation, and our best wishes to you and your family.

The Secretary will read.

THE SECRETARY: As members of the New York State Financial Control Board, Lawrence E. Golub, of New York City, and Jeffrey S. Halis, of New York City.

As a public member of the State Banking Board, Barbara Kent, of Staten Island.

As members of the State Environmental Board, Thomas Walter O'Brien, of Oneonta, and James W. Ransom, of Rooseveltown.

As a member of the Mental Health Services Council, Glenn Liebman, of Albany.

As a member of the Advisory Council on Alcoholism and Substance Abuse Services, Herbert Barish, of Nyack.

As a member of the Board of Visitors of the Brooklyn Children's Psychiatric Center, Patricia O. Moses, of Brooklyn.

As members of the Board of Visitors of the Central New York Developmental Disabilities Services Office, Sally W. Johnston, of Syracuse; Frederick Niebuhr, of Rome; and Shirley Mary Wilcox, of Little Falls.

As a member of the Board of Visitors of the Creedmoor Psychiatric Center, Joel A. Miele, Sr., of Howard Beach.

As a member of the Board of Visitors of the Finger Lakes Developmental Disabilities Services Office, Joseph A. VanHaelst, of Newark.

As a member of the Board of Visitors of the Kingsboro Psychiatric Center, Miriam Rocoff, of Brooklyn.

As members of the Board of Visitors of the Long Island Developmental Disabilities Services Office, Lita Cohen, of Bellmore, and Itta Ross, of Great Neck.

And as a member of the Board of

Visitors of the Staten Island Developmental Disabilities Services Office, James T. Roberts, of Staten Island.

ACTING PRESIDENT WRIGHT: The question is on the confirmation of the nominees as read by the Secretary. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT WRIGHT: Opposed, nay.

(No response.)

ACTING PRESIDENT WRIGHT: The nominations are carried.

Congratulations to the nominees.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time have the noncontroversial reading of the calendar.

ACTING PRESIDENT WRIGHT: The Secretary will read.

THE SECRETARY: Calendar Number 2171, by Senator Marcellino, Senate Print 6489A, an act to amend the Labor Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2189, Senator Breslin moves to discharge, from the Committee on Rules, Assembly Bill Number 8305 and substitute it for the identical Senate Bill Number 714, Third Reading Calendar 2189.

ACTING PRESIDENT WRIGHT: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2189, by Member of the Assembly Gordon, Assembly Print Number Print 8305, an act to amend the Town Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2190, by Senator Robach, Senate Print 1921, an act to amend the Penal Law and the Criminal Procedure Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 18. This act shall take effect on the first of November.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: In relation to Calendar Number 2191, Senator Libous moves to discharge, from the Committee on Rules, Assembly Bill Number 7157 and substitute it

for the identical Senate Bill Number 6436, Third Reading Calendar 2191.

ACTING PRESIDENT WRIGHT: The substitution is so ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 2191, by Member of the Assembly Finch, Assembly Print Number 7157, an act to authorize the conveyance.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2192, by Senator Larkin, Senate Print 6458, an act to amend the Education Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the same date and in the same manner as Chapter 510 of the Laws of 2007.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2193, by Senator Little, Senate Print 6486, an act to amend Chapter 400 of the Laws of 2007.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2194, by Senator Morahan, Senate Print 6491, an act to amend the Retirement and Social

Security Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2195, by Senator Leibell, Senate Print 6493, an act to amend the Labor Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Chapter 629 of the Laws of 2007.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2196, by Senator Flanagan, Senate Print 6501, an act to amend the Economic Development Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2197, by Senator Marcellino, Senate Print 6503, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT WRIGHT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the same date and in the same manner as Chapter 674 of the Laws of 2007.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2198, by Senator Larkin, Senate Print 6512A, an act to amend the Tax Law and the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2199, by Senator Leibell, Senate Print 6513, an act to amend the Tax Law.

ACTING PRESIDENT WRIGHT: Read

the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as Chapter 596 of the Laws of 2007.

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number 2200, by Senator Fuschillo, Senate Print 6549, an act to amend the Education Law.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

THE SECRETARY: Calendar Number

2201, by Senator DeFrancisco, Senate Print 6550, an act to amend the Judiciary Law and the New York City Civil Court Act.

ACTING PRESIDENT WRIGHT: Read the last section.

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

ACTING PRESIDENT WRIGHT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I'd just like to explain my vote.

This is the second judicial pay raise bill that has come before this house. And this bill basically decouples a potential legislative pay raise from judges' pay raises.

I don't think anybody in either house feels, on the merits, that judges should not receive salary increases. And this would result in a 20.84 percent increase retroactive to January 1 of this year, which is a very healthy salary increase which is long overdue and well deserved.

The point I'd like to make, however, is I don't know quite how many versions we have to pass in the Senate before

the Assembly decides that they're going to do something concerning judicial pay raises. And over the last several months, the criticism has been equally given across to all members of the Legislature that we are the ones who are not providing pay increases for judges.

Now, I guess it's pretty clear now that the Assembly has two choices -- hopefully we won't have to give them a third -- whereby they could come to Albany, do some business, and one of those pieces of business should be passing one of these pay raise bills. Because it's long overdue, and it should have been done many years ago.

But now it's here, two are on the table, come and get it done, please, members of the Assembly.

ACTING PRESIDENT WRIGHT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. To explain my vote.

I am sorry that -- I will vote in favor of this bill, but I'm sorry that we've come to this point in the year and this is all we've got to show for our overworked and

undercompensated judiciary. I have seen a lot of games played with one-house bills over the years, but this frankly is beyond the pale.

The Majority conference is not taking a bold stance in favor of pay raises for the judiciary. What you guys are doing is taking a beautiful Tiffany box, wrapping it up in silver paper, putting it under the judicial tree and when they open it, it is just a lump of coal, gentlemen and ladies.

This is not how you pass a bill. Let me call your attention to the history of the issue of legislation to raise the pay of the judiciary.

Governor Eliot Spitzer introduced a Governor's program bill earlier this year decoupling raises for the judiciary from raises for legislators. The bill was referred to your conference. It was put in on May 22nd of this year, referred to Finance. No Senate cosponsors, never circulated, never sent to the Assembly, no effort made to pass it.

I saw this was happening for several weeks, talked to some of my colleagues on the Democratic pro-judiciary side of this

house. We put in a bill on June 21st of this year, circulated it. Twenty-six Senate Democratic cosponsors, no Republican cosponsors. Went over to the Assembly and got an Assembly sponsor, the distinguished and esteemed and well-respected Assemblywoman Linda Rosenthal. So we have a bill, and we've been trying to move it.

So now you come out with this bill that was only filed on December 10th -- it hasn't been circulated, it hasn't got an Assembly sponsor -- so that you can posture and pretend to the judges out there that you are doing something for them before December 31st.

Ladies and gentlemen, let's be honest with the judiciary. We are undermining the most significant judiciary in the 20th century -- and I hope in the new century too -- in the nation. We are undermining a great bench, and there are people just leaving.

So let's be honest with ourselves. When associates, junior associates in our largest firms are paid $165,000, $175,000 a

year, it is a disgrace for us to pay judges what we pay them.

Let us take action. Please join with those of us in this conference who have signed on to a bill to raise the salaries of judges, and let's actually do something. I'm very disappointed that we're making this hollow gesture, giving the judges one more lump of coal.

This is a critical -- you know, look, I'm a lawyer, I know a lot of people who are judges. This is very personal to me. But for every man, woman and child in this state, to have a judiciary that is disgruntled, that is underpaid, that is undercompensated, that's out looking for work, that undermines democracy.

And I would like to urge you to heed the words of John Marshall, the greatest chief justice, who said: "The greatest scourge an angry heaven ever inflicted upon an ungrateful or a sinning people was an ignorant, corrupt, or dependent judiciary."

Now, if we're not going to support our judiciary, if we're going to make them beg

for crumbs, and if we're going to play games on Christmas Eve, we deserve -- I suppose that we qualify as an ungrateful or sinning people.

Let's not do that, ladies and gentlemen. We may be back here again. We may have other opportunities. Let's do what my conference has proposed. Let's raise the salaries for judges. Let's get them out of this thicket, and let's do the right thing by the judiciary of the State of New York. There are great judges out there waiting for us to take action. They can't help themselves; it's up to us.

I vote yes, Mr. President, but I vote yes with the understanding that when this beautiful box is opened, it's not going to be the gift the judges are waiting for.

Thank you.

ACTING PRESIDENT WRIGHT: Senator Schneiderman will be recorded in the affirmative.

I remind the members we are on a noncontroversial roll call.

Senator Skelos, to explain his vote.

SENATOR SKELOS: Thank you, Mr. President. If I could explain my vote.

I want to congratulate Senator Bruno for bringing this bill out today and certainly taking a very bold move in terms of uncoupling what has been a tradition in Albany of pegging legislative raises to judicial raises.

My good friend Senator Schneiderman -- and I'm glad you're voting yes -- sometimes has the habit of, when he's not sure where he's at, speaking quickly. And to say that this is a one-house bill and that it's basically a charade is wrong, because the Governor has asked us to pass this bill.

And all you need is the Assembly to come back next week, be responsible, as this body has been, pass the bill, and Governor Spitzer has indicated he will sign it.

Now, this is our second attempt to do what's right by our judiciary. Earlier in the year there was a bill that -- I believe it was sponsored by everybody in this house, unanimously. Everybody sponsored it in this house, to set up a commission, basically

Judge Kaye's commission that she recommended in terms of making a recommendation concerning judicial salaries, commissioners' salaries, legislators' salaries.

And lo and behold, the bill came up for a vote and just can't figure it out that all of a sudden all of my good friends on the Democrat side of the aisle who had sponsored the bill -- except for you, Senator, okay -- voted against it. Voted against it.

So again, this is an attempt by this Majority to do what's right by our judiciary, uncouple it from what has been a tradition in Albany and do what's right by our judiciary.

So, Senator Schneiderman, and to my good friends on the Democrat side of the aisle, I would suggest that you contact Speaker Silver, get them back, pass the bill, the Governor will sign it.

So, Mr. President, I will be voting yes on this bill.

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

Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

I was honored and proud to vote yes last time because I figured out that it was a good bill, an overdue bill. It was supposed to be done a long time ago. I think that our judges deserve the increase of salary.

But many people thought or said at that time that we were voting on that bill because that bill included also a commission that would deal with an increase of salary for us. And because the bill included a salary increase for us, so the Governor decided and the Assembly and everybody decided that we should vote against that bill.

Today, today the bill that is in front of us does not include us. Only for judges. So there is no reason why we are here discussing this bill. I don't see any reason why we're talking about it. It's a good bill. It has nothing to do with us, it's only for the judges.

So, ladies and gentlemen, as a Democrat, I'm voting, I'm supporting, I'm proud -- I congratulate Senator DeFrancisco

for introducing the bill. And as a Democrat, I'm calling, I'm calling on my fellow Democrats to support this bill.

I'm calling on the Assembly members to come back before the year is over, do the right thing, stop playing politics with the judges, stop using this as a football. And let's vote yes and let's get over with it, let's give the judges what they deserve. Ladies and gentlemen, Sheldon Silver and my son and all the Democratic Assembly, come back and vote yes for this bill.

Thank you.

ACTING PRESIDENT WRIGHT: Senator Diaz will be recorded in the affirmative.

Is there any other member wishing to explain their votes?

Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

You know, we kind of lose the point here when we talk about the judges deserve a pay raise and so on and so forth. What we miss is really the constitutional underpinning, and that is the independence of

the judiciary.

Which in our constitution, you know, we can't diminish their salaries. It says we can't. The independence of the judiciary requires a consistent level of living for people in the judiciary to maintain their independence as well as the quality of attracting people.

Now, I'm voting for this, but this doesn't even do it. If you look at history, once upon a time in the early part of the last century, in the 1920s, people routinely, even through the '40s, routinely quit Congress to be a New York State Supreme Court justice because it paid so much more than a member of Congress got.

Not so long ago, when I got out of law school -- not so short a time, either -- I started as an associate in a very large Wall Street law firm at the magnificent sum of $16,000 a year. And that was a lot of money then, in 1970, it really was. Teachers were starting at $4,000, whatever. But a State Supreme Court justice then made I think it was $38,000 or $39,000 a year, more than twice

what a starting associate at a large law firm in Manhattan made. Now they start at $165,000.

What I'm suggesting is we've failed our constitutional responsibility over a period of years. So this bill does some justice, but it doesn't restore that concept that the judiciary should be independent from anybody's whims about what they should make.

What ultimately will do it is a commission, which should have been established decades ago, to do cost-of-living increases. And therefore, by the way, linking judicial salaries to ours, which we're not doing in this bill, is not just a tradition. I think it was wrong. I don't like linking.

What we're talking about linking is I don't like that the last Governor, and it appears this Governor, seems to link legislative pay raises to pieces of legislation about which some of us support and some of us oppose. When the last Governor did it, it was charter schools versus a pay raise. Well, if you didn't believe in charter schools, what were you supposed to do?

Abandon your beliefs to get a pay raise? And unbelievably, some editorial writers think we should do that.

You know, I remember Governors who didn't link it. When the business was done of the Legislature, they would say to the leaders, you know, it's been four years or six years, we should do a pay raise bill. Because it was the right thing to do, not because it was linked to this and you give me this or you give me that.

So it's good we're taking away the link between the judges and everything else. But I think if we're really going to change Albany and change the culture here, we have to start voting on individual pieces of bills, whether they're a pay raise or a form measure, whatever, on their merits, the way we represent our constituents and our consciences. And not, well, I really hate this, but I'll vote for it because I'll get this or that.

I just think that's about the Albany dysfunction that's crept in over the last couple of decades. And this is a small

part, perhaps, in ending that, but by no means are we there.

Thank you, Mr. President.

ACTING PRESIDENT WRIGHT: How do you vote, Senator Connor?

SENATOR CONNOR: I vote aye.

ACTING PRESIDENT WRIGHT: Senator Connor will be recorded in the affirmative.

Senator Adams.

SENATOR ADAMS: Thank you.

Last week I had the opportunity to testify at the PERB hearing for raises for our police officers, because I believe that New York City police officers and the job that they've done throughout the years is deserving of an increase that's comparable to their counterparts throughout the state.

And I'm not embarrassed to say that although on record this is supposed to be a part-time job, but anyone that does just eight hours or seven hours for half a term for half a year -- you and I all know that there's nothing part-time about being a State Senator.

And as we continue to be embarrassed to say we deserve to be paid

comparable to City Councilpersons in New York City that makes well over $100,000, I don't know how some of you are living, to tell you the truth, on $79,000. You qualify for public assistance.

This is a joke. This is a joke. Our staff is not being paid enough. We're not being paid enough. And we're allowing people to tell us that we should not look for a raise increase.

Yes, the judges should get a raise. Yes, I support this bill that judges should get a raise. But our raises should not be connected to anything but we deserve to get a raise. Six, seven, eight years without a raise? And we are nine years and we are ashamed to go in front of our constituents and say yes, we deserve a raise?

I don't care what paper -- let the editorial boards from Buffalo to New York state that they will go eight years, nine years without a raise. Let any private entity, let Wall Street state that during Christmastime they're going to turn down their bonuses because they didn't do a good job with

the stock market and with our hedge funds and my terrible 401(k) value that keeps going down and down. Let them turn down their raise. Let everyone that states that what they do is comparable to should they get an increase or not.

Don't be insulted for yourselves. You should be insulted for your children that you are not allowed to give your children an affordable, decent form of living. Because all of us know when we're up here, our children are down there. When we are in Albany, unlike the Post editorial and the Buffalo editorial, when they go home and spend time with their children, we're up here in Albany. Half the year we don't see our family.

And we are ashamed to say we deserve a raise. Well, I'll be darned if I'm ashamed to say it. I deserve a raise. I deserve to be paid more. And I'm only a freshman, and I'm already complaining. We better vote on a raise and make sure we get paid more. And I say that to the Governor, I say that to the Mayor, I say that to anyone.

And anyone here that believes you are so marginal that you all want to be paupers, then you do it on your own. Give me -- show me the money. Show me the money. That's what it's all about.

We deserve more money. We deserve to be paid for the job we're doing. We deserve to be spending hours away from our family. We deserve to be attending countless numbers of community events. We deserve to be hearing countless number of complaints from our constituents and finding solutions. We deserve the time that we spend trying to figure out how to make government friendly and squeeze hope into the hands of people who feel hopeless. We deserve to be paid for doing our job.

And so yes, the judges deserve to get an increase. They deserve for the time they sit on the bench --

ACTING PRESIDENT WRIGHT: Senator Adams, I believe you've made your point in the two minutes. How do you vote?

SENATOR ADAMS: I deserve a raise. And I believe that the judges do also.

I vote in favor.

(Laughter.)

ACTING PRESIDENT WRIGHT: You're not paid by the hour, Senator. Thank you.

(Laughter.)

ACTING PRESIDENT WRIGHT: If there's no other Senators wishing to explain their vote.

Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President and colleagues.

You know, I listened with great interest at the observations and the comments. And in the spirit of the season, I am going to be as kind and generous as I can be.

Senators, please, examine your own consciences. We voted, Senator, for a bill, early this year, in regular session, to give judiciary a raise, to create commissions. You all sponsored the bill and voted against it, unanimously -- with one man with great vision and wisdom --

(Laughter.)

SENATOR BRUNO: -- Senator Diaz.

(Laughter.)

SENATOR BRUNO: Now, with the bill that's before us, the Governor supports it, Mayor Bloomberg supports it, Judge Kaye and the judiciary have originated this bill.

So I will remind you -- and if you haven't seen the support memo from the Governor, then you'd better correct yourselves -- there are three separate branches of government in this state, legislative, executive and judiciary.

We are addressing the judiciary, as our chairman indicated and described. And they're getting a well-deserved raise for the good work that they do, their commitment, their dedication, their self-sacrificing. Many of them, with their decisions, taking their lives in their hands. Doing the right things, just as we do so many times. To each his own. We are addressing a separate branch of government, the judiciary.

Now, wouldn't it be nice if we had a partner, here in the Capitol, in the Assembly. Your colleagues in the majority in the Assembly elected not only not to address the first version of the bill we passed and

sent over -- and I didn't hear you screaming and yelling and being defensive. I didn't hear that.

They're not here. They're not here. We would like to be able to negotiate, to discuss, to do whatever is in the best interest of the constituency that elects us to represent their interests. But the Assembly is not here. Fourth trip back since June doing the people's work.

Congratulations to you. Congratulations to you that are voting for this, because it's the right thing to do.

Other issues before us we'll take up, Mr. President and colleagues, in due time. But we have to move on with our lives. If you don't know it, the weather outside is frightful, okay, and we do not have a fire that is delightful.

(Laughter.)

SENATOR BRUNO: So I would suggest voting in favor, that we move to the other issues before us.

ACTING PRESIDENT WRIGHT: Thank you, Senator Bruno.

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT WRIGHT: Report the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT WRIGHT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Mr. President, is there any other business to come before the Senate?

ACTING PRESIDENT WRIGHT: Senator Bonacic would like to be recognized, Senator.

SENATOR BRUNO: Senator Bonacic.

ACTING PRESIDENT WRIGHT: Senator Bonacic.

SENATOR BONACIC: Just two quick points.

Senator Bruno, Senator Smith, my colleagues and staff, all your staff, we wish you a merry Christmas and a happy holiday season.

You know what I noticed over the years? No one ever steps up near the end of the year to wish their colleagues whether it

be a Merry Christmas or a Happy New Year. So from me to you, peace and good health to you and your families.

The second point that I'd like to make, this may be the last day for our general counsel, John Cahill. He has given us 37 years of service, and he will be retiring at the end of the year.

And, John, from me to you, I want to thank you for your professionalism, your temperament, your assistance to me, your patience. You are the best. We wish you continued success in all your future endeavors. Thank you, John.

(Standing ovation.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Mr. President, there being no further business, I would like to first commend Senator Bonacic for saying all the things that I had been prepared to say.

(Laughter.)

SENATOR BRUNO: So thank you. Thank you. And I say thank you, Senator Bonacic, very articulate and right on.

John, 37 years in the Legislature. '81, started here in the Senate. Started reporting to work at 6:00 in the morning, leaving at 8:00 to go to college. Impressive. What was he doing? You know what he was doing? Cleaning. Emptying wastebaskets, dusting, then going to college. And what did he do? Came right to the top.

So we're indebted, John, really, for your service, for your commitment, for your dedication and just all the hours -- days, nights, weekends -- that you spend.

And this is a chapter that closes; another chapter will open in John's life. He is not going away. He is not going to Colorado or Arizona or anyplace else, he's going to be around here, and hopefully we will see his congenial, talented, smiling face as we go forward.

And I think Senator Wright -- is Senator Wright here? Senator Jim Wright.

(Applause.)

SENATOR BRUNO: Senator Jimmy Wright has made a life decision to move on. At the end of this year he will have resigned

as the elected representative in his district in the Senate.

And, Jim, when we're thanking people, we want to thank you for the years that you spent, lastly here as chair of Energy and Telecommunications. And we talked earlier: challenging, difficult, hard to make people happy, and not enough for everyone that wants help and support. But Senator Wright did it really in a classy way, in an upstanding way.

And this, for Jim, will be the last session in the Senate. But again, doors close, doors open. And we look forward to seeing Senator Wright in some fashion, in some way being representative.

So, Senator Wright, thanks for your friendship with me personally, with your colleagues on both sides of the aisle.

And, Mr. President, I am the last speaker up; right?

THE PRESIDENT: Yes.

SENATOR BRUNO: Thank you.

Senator Wright.

SENATOR WRIGHT: Thank you,

Leader.

Let me simply say thank you to Joe Bruno for his leadership and his friendship throughout my tenure here in the Senate -- and that was before he was leader, but certainly since he has been leader.

But more importantly, it truly has been an honor for me to serve the people of this state and for 15 years to represent the people of the 48th Senate District, otherwise known as the North Country. It has been a privilege to serve in this chamber. It's been a privilege to serve with each and every one of you and your predecessors.

It has been a wonderful experience. It, like any other job, has had its ups and downs. But I think as you all recognize, it's a responsibility that one takes on and takes very seriously. We may well disagree, but it's not because we don't share convictions about our points of view. And it's not that we don't have a responsibility to articulate those positions on behalf of the individuals who represent us.

So thank you. I intend to see as

many of you as often as I possibly can -- in an ethical relationship, because I voted for reform.

(Laughter.)

SENATOR WRIGHT: Thank you to the leader. Thank you to all the members. I truly appreciate the recognition, and I truly appreciate the friendships. Thank you.

(Extended applause.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: I want to wish everyone in the chamber just a happy holiday season. Be careful, be safe. And take care of yourselves, your families.

Thank you for your friendship. Thank you for your support. Thank you for being representative. Thank you for being part of the Senate in '07.

And there being no further business to come before the Senate, I would move that we stand adjourned, subject to the call of the Majority Leader, intervening days to be legislative days.

God bless you.

THE PRESIDENT: Happy holidays.

Senate is adjourned.

(Whereupon, at 5:34 p.m., the Senate adjourned.)