NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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February 23, 2010

5:00 p.m.

REGULAR SESSION

SENATOR NEIL D. BRESLIN, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT BRESLIN: The Senate will please come to order.

I ask all to rise and repeat with me the Pledge of Allegiance.

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

ACTING PRESIDENT BRESLIN: Today's invocation will be provided by Dr. Hector A. Chiesa, bishop of the Church of God in the Bronx.

Bishop.

BISHOP CHIESA: Thank you.

We pray in two languages today, in the language of Cervantes, in the language of Shakespeare. Let's pray together.

[In Spanish.]

O God of love, we invoke your presence in this great event where the Honorable Senator John Sampson, the Honorable Senator Ruben Diaz, the State Senate, and the Puerto Rican and Latino Caucus has seen fit to celebrate, for the first time in history, the Dominican Heritage Month.

Lord, allow Your presence to

saturate this place and bless every legislator. Thank You for your immense love and for all You have been doing for all of us, especially for the 800,000 Dominicans in our Empire State, especially in the City of New York.

In this year 2010 I ask, O Lord, to illuminate us so that we can comply with the tasks assigned to us. Allow us to understand that we are your creations and your creatures. Make us in your image, insanguine God. Help us know and fill the needs of our fellow man. Allow us to recognize in our fellow man the divine spark that makes him our brother, his human spark that makes him our friend, his special spark that makes him an individual deserving everyone's respect.

Grant us, O God, the ability to satisfy fully each member of our families, to be able to fulfill the citizen's responsibilities of healthy coexistence in our communities and in our state, to comply with our social responsibilities, serving our community efficiently and effectively in our neighborhoods, especially in the City of

New York and the South Bronx.

O, Almighty God, please allow this sense of recognition toward our Dominican brothers generate cooperation and solidarity. Move us, Lord, to act to human beings in these troubling times with full hearts. Today, Haiti needs us. Tomorrow, it may be us who are needy.

O God, help us to increase our faith, love and charity. And bless America, and bless our Senate.

Amen.

ACTING PRESIDENT BRESLIN: Thank you, Bishop.

The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Monday, February 22, the Senate met pursuant to adjournment. The Journal of Friday, February 19, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT BRESLIN: 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 Klein.

SENATOR KLEIN: Mr. President, I have two motions.

First, on behalf of Senator Ruth Hassell-Thompson, I move to amend Senate Bill Number 4027A by striking out the amendments made on 11/17, 2009, and restoring it to its original print number 4027.

ACTING PRESIDENT BRESLIN: So ordered.

SENATOR KLEIN: The second, on behalf of Senator Squadron, on page 13 I offer the following amendments to Calendar Number 97, Senate Print Number 3775B, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT BRESLIN: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, will you please recognize Senator Padavan.

ACTING PRESIDENT BRESLIN: Senator Padavan.

SENATOR PADAVAN: Thank you, Mr. President.

On behalf of Senator DeFrancisco, I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Bill 1514, 1515, 2725, and 2856.

ACTING PRESIDENT BRESLIN: So ordered.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe Senator Sampson has a resolution at the desk. I ask that the resolution be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT BRESLIN: Senator Klein, has the resolution been deemed privileged and submitted to the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Sampson, legislative resolution calling upon Governor David A. Paterson to immediately abandon his intention to delay the refunding of individual and business income tax overpayments and refund those overpayments with all deliberate speed.

"WHEREAS, Governor David A. Paterson announced as recently as February 16, 2010, his intention to delay payment of approximately $500 million in personal income tax refunds owed to New York State taxpayers; and

"WHEREAS, The hard economic times in which hardworking individuals and families across the state presently find themselves make it critically important for the state to remit personal income tax refunds as expeditiously as possible in order to meet the dire needs of taxpayers struggling to make necessary purchases and meet their financial

obligations; and

"WHEREAS, Governor Paterson has also announced his intention to delay payment of approximately $200 million in business tax refunds; and

"WHEREAS, Many small and large businesses depend upon the timely receipt of their tax refunds to support the ongoing economic and marketplace activity driving their loyal and regional economies; and

"WHEREAS, The residents, businesses and taxpayers generally in the state have already shared the sacrifices imposed upon them by recent cuts in vital programs; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to call upon Governor David A. Paterson to immediately abandon his intention to delay the refunding of individual and business income tax overpayments and refund those tax overpayments with all deliberate speed; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the Honorable David A. Paterson, Governor

of the State of New York."

ACTING PRESIDENT BRESLIN: Senator Winner.

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

I would thank Senator Sampson for introducing this resolution and certainly join with him in the desire on a bipartisan basis that we encourage and are successful in getting the Governor to withdraw any intention of delaying the refunds that are due to the hardworking taxpayers of the State of New York.

As some of you may know, I think that there is a better way to do this, however -- a way that is much more effective, and a way that is also being sought on a bipartisan basis. And that is to enact legislation that was introduced and ready for action by this Legislature and the Assembly to require that these refunds be processed in a 30-day period and have that legislation in place prior to the Governor being able to undertake these actions to deprive the taxpayers of their hardworking dollars.

You know, I just think that it is unfortunate that, you know, if you are a taxpayer in this state you certainly, if you want to put your shoe on the other foot, you know what happens to you if you delay your payments to the State of New York. They're certainly all over you with interest and penalties as fast as they possibly can get the notice out.

All I'm saying here is that if it's true that they can process these things as fast as they're now indicating that they can, that this legislation that would require those refunds to be made within 30 days is a reasonable approach and something that I would hope we could embrace on a bipartisan basis.

I see my good friend from the Assembly, my cosponsor of this legislation, is even in the chamber: Assemblyman Brodsky. And I know Assemblyman Brodsky and I would be glad to work together to make sure that this legislative proposal is enacted into law to protect our taxpayers going down the road who need that money, as this resolution points out, ASAP, not only for their own needs and

their bills and as they struggle to make it in this state, but also our economies throughout this state need the infusion of those dollars back as soon as possible.

The State of New York should not be able to live off the float of the taxpayers of the State of New York. They should be required to return the money that is duly not theirs as fast as possible. And the legislative proposal under Senate 3985 would do that.

And to that end, pursuant to Rule 11, Section 3, I have proposed a petition which would seek signatures from the other side of the aisle. All members of this side have duly acknowledged their willingness to join with that. We need 38 members, under our rules, in order to get that bill on the floor.

And if we can get any of you over there to be willing to be bipartisan with respect to this issue, sign onto this position petition, we can get this done, and we can have that bill on the floor on Monday and we can make sure that it gets sent down to the Governor as soon as possible to show a real

deliberative effort to make sure that we're not delaying these refunds any longer.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Winner.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

I too would like to add my voice to thanking Senator Sampson for putting this resolution on the floor.

I do endorse my colleague Senator Winner's concept and his idea of a bill, and I think that's a good idea that we should do that in addition. But I think right now I want to see that the overburdened taxpayers of this state, the people who have paid more money to this state than they are required to pay -- this is a refund. This is not our money, this is not the state's money, this is not the government's money, it's not the Governor's money. It's the people's money. They deserve it back. They deserve it back as quickly as possible and without any delays and without any chicanery.

It's got to go back -- this money pays bills. People budget based on their tax refunds. They're waiting for this money at their homes in order to get their refunds and to pay certain bills -- mortgage payments, rent payments, food payments, school payments. Things like that are all due, and this money is used to pay all of those things.

So for the Governor to suggest that we should hold this money back -- which as I said earlier is not our money, it's their money. It's the taxpayers' money, it's the people's money, and they should get it back.

And once again, Senator Sampson, a good idea, a good resolution. I'm going to vote in favor of it, and I hope everybody else does.

And I hope we also support Senator Winner's proposal. It's a good one. Let's make this a law that this cannot ever be done again, that this tax refund should go back to the people as quickly as possible. Because as I said, again, it is not our money, it is the taxpayers' money, and they deserve it back as quickly as possible.

Once again, thank you, sir. Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Marcellino.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

Just briefly, let me just thank my colleague Senator Sampson for this resolution. Senator, you've laid the groundwork for a budget this year that can't raise taxes or can't raise fees. And in your resolution you mention refund tax overpayments. That's, as Senator Marcellino said, individuals' money who paid too much in taxes.

When the Governor first proposed this, I received so many calls to my office, like many of my colleagues here, from people that were shocked and devastated. They budgeted this money being returned to them. They budget this money to pay their bills, to pay their mortgage and other necessities in everyday life.

Senator Winner's bill is important. At a minimum, they should get their refund

within 30 days. I proudly signed that petition, and I encourage my colleagues to do it as well.

Senator Sampson, we need keep on this mode, we need to keep on this path and this avenue of an understanding that people are taxed too much, they're fee'd too much. I've said it before, that New York State is taxing and feeing them to death. This resolution is a step in the right direction; I proudly support it.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Fuschillo.

Are there any other Senators wishing to be heard on the resolution?

Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President. Thank you, Senator Sampson. And thank you, Senator Winner.

You know, when you get to be my age, you look around and see how people spend their money and watch their money. During our vacation -- our vacation? That's not right. During our slushing home for 10 days, I went

to shopping centers and I went to malls and I went to the store and train stations, getting accustomed, as I always do. And people, number one was taxes.

What in God's name is the Governor thinking about? One lady came to me and said, "You know, we have a nice refund coming, but we have to have that money in for our son to attend Lafayette in the fall." Another one said, "We do this every year so that when all of the credit card bills come in in January, February, we can pay the Christmas gifts to our families and friends."

And for the Governor to do this clearly indicates that he isn't in touch with the people of the State of New York. This is a disgrace. Everybody across the country is laughing at us. They're saying, When are you going to take the IOUs next, just like Schwarzenegger in California?

So Senator Sampson, again, thank you very much for taking a step. And Senator Winner, you've had this for some time now. Maybe we'll turn around and do your bill.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Larkin.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I just want to add one thing to the debate, and that is that this is a common-sense resolution. It makes common sense that the people's money should not be held because of government's inability to keep their books in order and to keep the state in the black.

It's bad enough that we're overtaxing and overspending. Then we're going to keep the money that we have no right to. So it's common sense.

So I will guarantee you that everyone in this chamber will support Senator Sampson's bill. And on Monday, I will be here asking each of those Senators who supported this resolution why they did not sign the petition that Senator Winner has proposed, why they have not done a real solution -- not a window dressing to make a protest, but a real solution, a law that this governor and whatever future governors would be bound by; namely, that the law says you can't do this,

you've got to give refunds back in 30 days.

So I will vote aye on this resolution.

ACTING PRESIDENT BRESLIN: Thank you, Senator DeFrancisco.

Senator Ranzenhofer.

SENATOR RANZENHOFER: Thank you.

Just briefly, I'd just like to join with some of my colleagues in thanking Senator Sampson for this resolution, and obviously thanking Senator Winner, who's had this on the table for some time.

This is an important message that we send from this body that the Governor is really off-base with the suggestion of withholding the taxpayers' money. As was said so eloquently by others, this is not the government's money, this is businesses' money, this is personal money which people are entitled to have back.

And I'm also looking forward -- as I said, this is really a first step. This is a resolution that's going to be passed today, but I think just as importantly is that we pass this legislation, which my understanding

it's been in this body for some time, that we enact it into law so we don't have to deal with this from this governor or any other governor in the future, threatening people across the state that they're not going to have their money back when they normally expect it.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Ranzenhofer.

The question is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe there's a resolution at the desk by Senator Perkins. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT BRESLIN:

Senator Klein, has the resolution been deemed privileged and submitted to the office of the Temporary President?

SENATOR KLEIN: Yes, it has, Mr. President.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Perkins, legislative resolution commemorating the 142nd birthday of American civil rights activist pioneer William Edward Burghardt Du Bois, and paying tribute to his life and accomplishments.

ACTING PRESIDENT BRESLIN:

Senator Perkins.

SENATOR PERKINS: Thank you very much, Mr. Chairman.

I would just first like to just ask my colleagues to join me in signing onto this resolution. I'm going to be brief, because I think most of us know about Dr. W.E.B. Du Bois. And maybe not in all the detail that the resolution outlines, but at least in terms of one of his signature accomplishments that

I'm sure most of us are familiar with -- in fact, I'm pretty sure most of us have paid our due to the NAACP. W.E.B. Du Bois was the founder of the NAACP, the National Association for the Advancement of Colored People, the civil rights group that has been responsible for so many advancements in civil rights and civil liberties in our country.

So in tribute to him, I would offer you not only the opportunity to sign onto the resolution, but please pay your dues.

(Laughter.)

SENATOR PERKINS: Thank you so much.

ACTING PRESIDENT BRESLIN: Thank you, Senator Perkins.

Senator Parker.

SENATOR PARKER: Mr. President, on the resolution.

W.E.B. Du Bois is a hero of mine. He's somebody who, in the American context, was one of the first American multidisciplinary geniuses, somebody who was a historian, a scholar, an activist, a politician. He is somebody who has made a

great contribution not just to African-American history and to the lives of people of African descent here in New York State and in the United States, but also to the American context.

He is the father of sociology -- not the black father of sociology, the father of sociology. His book The Philadelphia Negro actually was the first sociological study ever done anywhere, and it became the basis from which the whole discipline of sociology emerged. So anybody in here who has a sociology degree, you owe your discipline and what you understand about the methodology of how we in fact collect data around the contexts of families and institutions and culture to what W.E.B. Du Bois created with his book The Philadelphia Negro.

And of course his involvement with the Niagara movement that led into the emergence of the NAACP, as Senator Perkins indicated, was critical.

And, you know, we take the NAACP for granted, and it's seen, you know, kind of as a mainstream thing at this point. But,

Mr. President, let me tell you at the time of the creation of the NAACP, they were the Nation of Islam of their day. They were at the vanguard of really radical thought and really African radical thought in this country.

He in fact made a break from the NAACP for a little while because he was actually even more radical than them, because he dared to speak out against lynching. Something that again, you know, we wouldn't hesitate -- well, maybe we would. But I would think that we wouldn't hesitate to speak against it in this context. At that time speaking out against lynching was a radical act.

And so, you know, his importance is beyond just being a scholar. And people like to talk about him as the first black Ph.D. from Harvard University, which is certainly important. But beyond just the scholarly work that he has contributed, his activism has really shaped American culture and taken us to a place that even a young boy from Brooklyn can become a state senator.

Thank you.

ACTING PRESIDENT BRESLIN: Thank you, Senator Parker.

Senator Klein, to close.

SENATOR KLEIN: Thank you, Mr. President.

I want to thank my colleague Senator Perkins for bringing this resolution before us today. I think it was said very eloquently by my colleague Senator Parker. But I think one of the interesting things that very few realize about W.E.B. Du Bois is all he did for the African-American movement and really moving things a lot quicker.

The Philadelphia Negro, when it was written, it was really a milestone. Because he made very eloquent arguments, sociological arguments that the reason why the African-American has not achieved the same as Italian-Americans, Irish-Americans and Polish-Americans is because there is an assimilation process that's here. In other words, when Irish come to this country or Italians come to this country, there's people that are already here that are established in

businesses that give them a helping hand. The African-American did not have those benefits. Believe it or not, that was a milestone.

And he helped move Booker T. Washington, who was the major leader in those times, in a very radical direction, like Senator Parker said. But it didn't come quickly enough. And I think that's why he truly was such a great man, because he was a radical in his times. But when you read the things he was talking about, it was just common sense.

And certainly he was a man ahead of his times. And I join my colleagues today in recognizing the 142nd birthday of this truly great man.

ACTING PRESIDENT BRESLIN: Thank you, Senator Klein.

The question is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senator Perkins has indicated he would like to open this resolution up to the entire body for cosponsorship. Anyone not wishing to be on the resolution please signify by coming to the desk.

Senator Klein.

SENATOR KLEIN: Mr. President, I believe Senator Padavan has a question.

SENATOR PADAVAN: Yes. I wonder, Mr. President, if we could extend the same courtesy on the previous resolution, by Senator Sampson, that all members would be on it unless they so indicated to the contrary.

ACTING PRESIDENT BRESLIN: Senator Sampson.

SENATOR SAMPSON: Of course.

ACTING PRESIDENT BRESLIN: Yes. The prior resolution, Senator Sampson has indicated all those people in the chamber will be placed on the resolution unless you signify otherwise by coming to the desk.

Senator Klein.

SENATOR KLEIN: Mr. President, at

this time can we adopt the Resolution Calendar in its entirety, with the exception of Senate Resolutions 3670 and 3908.

ACTING PRESIDENT BRESLIN: All those in favor of adopting the Resolution Calendar in its entirety, with the exception of Senate Resolutions 3670 and 3908, please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The Resolution Calendar is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, at this time can we please take up Resolution Number 3670, by Senator Diaz. I ask that the resolution be read in its entirety and move for its immediate adoption and allow Senator Diaz to speak on said resolution.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Diaz, Legislative Resolution Number 3670,

memorializing Governor David A. Paterson to proclaim February 2010 as Dominican Heritage Month in the State of New York.

"WHEREAS, It is the sense of this Legislative Body, in keeping with its time-honored traditions, to recognize and pay tribute to those who foster ethnic pride and enhance the profile of cultural diversity which strengthens the fabric of the communities of New York State; and

"WHEREAS, The citizens of this great Empire State are proud to recognize and commemorate Dominican heritage at an observance that celebrates the contributions of Dominican-Americans to New York State's unique heritage; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to memorialize Governor David A. Paterson to proclaim February 2010 as Dominican Heritage Month in the State of New York; and

"WHEREAS, In 1838, one of the country's patriarchs and national founder Juan

Pablo Duarte established a secret society called La Trinitaria, which sought the complete independence of Santo Domingo without any foreign intervention. Ramon Matias Mella and Francisco del Rosario Sanchez, despite not being among the founding members of La Trinitaria, were decisive in the fight for independence. They and Juan Pablo Duarte are the three founding fathers of the Dominican Republic; and

"WHEREAS, On February 27, 1844, the Trinitarios (Trinitarians) declared the Dominican Republic's independence from Haiti; and

"WHEREAS, The following dates and events are of great significance and serve as a distinct awareness of the rich Dominican heritage: Tuesday, January 26, 2010, marks the 197th anniversary of the birth of patriarch Juan Pablo Duarte; Saturday, February 27, 2010, is the 166th anniversary of the independence of the Dominican Republic; and Sunday, July 25, 2010, La Gran Parada Dominicana de el Bronx, Inc., is hosting its 21st annual parade celebrating Dominican

heritage along with the St. James Patronal Feast Day of Santiago de los Caballeros; and

"WHEREAS, Founded by Mr. Felipe Febles and assisted by Mrs. Rosa Ayala, La Gran Parada Dominicana de el Bronx, Inc., was established following the ideas and paying tribute to the famous founding father Juan Pablo Duarte; and

"WHEREAS, A native of La Romana Province, Dominican Republic, Felipe Febles is also executive director of the Grand Dominican Parade of the Bronx and the Dominican Cultural House of the Bronx, New York, Inc. He has been a community leader for over 30 years and is a recipient of numerous civic, educational, and cultural honors; and

"WHEREAS, Rosa Ayala is a native of La Vega Province, Dominican Republic, and has been a community leader for over 20 years. She is the co-executive director of the Dominican Cultural House of the Bronx, New York, Inc., and, along with Mr. Febles, is the founder of the My Dominican Heritage Award. She has also received many cultural, civic, and educational awards; and

"WHEREAS, This Legislative Body is honored to be joined today by several distinguished dignitaries, including His Excellency Ambassador Roberto B. Saladin, Dominican ambassador to the United States, and Consul General Rafael Evans, consul general of the Dominican Republic in New York; and

"WHEREAS, It is duly fitting that all New Yorkers join in these important celebrations of one of our state's most vibrant communities. This much-anticipated observance and its accompanying activities will foster greater appreciation for Dominican culture and serve to promote the spirit of cooperation that is characteristic of all citizens of New York State; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize Governor David A. Paterson to proclaim February 2010 as Dominican Heritage Month in the State of New York; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to David A. Paterson, Governor of the State of

New York, and to Ambassador Roberto B. Saladin, Ambassador Federico Alberto Cuello Camilo, Consul General Rafael Evans, Mr. Felipe Febles, and Mrs. Rosa Ayala."

ACTING PRESIDENT BRESLIN: Senator Diaz.

SENATOR DIAZ: Thank you, Mr. President.

Today is a historic day. The previous resolution was talking about achievement. Today we take joy in the achievement that the Hispanic community has made in the United States.

Many, many years ago, when we Hispanics didn't even know where this chamber was, there was a guy, a Hispanic guy that opened the door for all of us. And he became the first, the first Hispanic elected New York State Senator, the first person that sat in this chamber, the first Hispanic that put his feet in here.

That's many, many years ago. And today, to honor what we're doing, he's here, he came from Washington: Congressman Roberto Garcia. He was the first Hispanic that sat

here.

(Standing ovation.)

SENATOR DIAZ: So today we again make history in this chamber. Today is the first time, Mr. President, the first time in the history of this chamber that we honor and we present a resolution honoring the Dominican Republic. This is history.

And thanks to my leader, Senator Sampson, and to my colleagues in the Puerto Rican and Latino Caucus, we are doing this today.

The history, Mr. President, of this great country, the Dominican Republic, the history of their struggle and dignified fight for independence, are symbolized in the person of Juan Pablo Duarte, Ramon Matias Mella, and Francisco del Rosario Sanchez, better known as Duarte, Sanchez y Mella.

The month of February is important in the history of the Dominican Republic for the following reason. On February 27, 1844, the Trinitarians -- Senator Savino, that is the Trinitarios -- the Trinitarians declared the Dominican Republic's independence from

Haiti.

The history of this community in the United States of America and their achievements are well known by everyone. They came here with nothing, but they worked hard and educated their people in the land of promise. Today, the Dominican community, they own grocery stores, they are the leaders in the taxi industry, they are doctors, they are lawyers, they are educators, they are police officers and firefighters. They are boxers, baseball players. They are ministers.

Raise your hand, all the ministers there. There are ministers all over.

They are ministers, they are pastors, they are bishops, they are elected officials, they are community leaders, et cetera, et cetera. In every segment of life in the United States, especially here in New York State, we find the Dominican community.

Members of the Dominican community are here today. They have come to join us in this historic occasion. We have the Dominican ambassador, the number-one representative of

the Dominican Republic in the whole United States, the Honorable Roberto Saladin, the ambassador in Washington. He has to present his documents to President Obama, because he is the biggest representative of the Dominican community in the nation. And he came from Washington for this occasion.

We have the consul general of the Dominican Republic in New York, the Honorable Rafael Evans. We have the founders of the Bronx County Dominican Parade, Mr. Felipe Febles and Rosa Ayala. We have the president of the Dominican in the Exterior Committee, Mr. Maximo Ayala. We have the Apostles Ricardo Reyes and Frank Almonte. We have members of the New York Hispanic Clergy Organization. The balconies are full of them, the two balconies today.

And, ladies and gentlemen, we have the president of Radio Vision Cristiana Internationale, the radio station that covers Puerto Rico, the Dominican Republic, the whole state of New York, New Jersey, Connecticut: Dr. Hector A. Chiesa.

We have the chaplain of the

New York City Police Department, Inspector Luis Serrano.

We have many, many other members of the community that have come here today to honor and to participate in this unique and historic event.

I would like to express my gratitude to the Senate Leader, the Honorable John Sampson, and the Senate Secretary, Mr. Angelo Aponte, for making this first and historic event in the New York State Senate.

I would like to express my appreciation to the members of the New York State Puerto Rican and Latino Caucus, the Honorable Majority Leader Senator Pedro Espada, Senator Martin Malave Dilan, former State Senator Hiram Monserrate, who worked hard with me to put this together, and Senator Jose Marco Serrano.

I would like to express my appreciation to Ms. Marlene Cintron, the executive secretary of the New York State Senate Puerto Rican and Latino Caucus, to my staff, and to the Senate staff. They all worked hard.

Today I invite all of you at 6 o'clock to join us in the Egg. We have a Dominican activity, a ceremony, with Dominican food, we have Dominican music, we have Dominican entertainment. So all of you are invited to join us at 6 o'clock in the Egg.

Now, to my amigos, in Spanish. We all due respect to my amigos -- to my English-American amigos, I am Puerto Rican and Hispanic, and for the first time I am going to speak Spanish here. Because [in Spanish] we have people from all over the state here today [in Spanish].

(Applause.)

SENATOR DIAZ: [In Spanish]. The baseball players. They are the best. They come from my country.

[In Spanish]. The Egg. So all of you, my English-speaking colleagues, when you talk about the Egg, the Egg, in Spanish es "el huevo." So I invite all of you to El Huevo at 6 o'clock.

Senator Sampson, thank you very much. [In Spanish]. Que viva, que viva la Republica Dominicana!

(Extended applause.)

ACTING PRESIDENT BRESLIN: At this point I would like to invite you, Senator Diaz, to bring the ambassador, Ambassador Roberto Saladin, to the podium for a few words.

(Applause.)

AMBASSADOR SALADIN: Distinguished Senators, allow me, on behalf of the president of the Dominican Republic, President Leonel Fernandez Reyna, his government, the Dominican people in the island, and the Dominican diaspora here in the U.S. and Puerto Rico, to say from the bottom of my heart, thank you very much to you all.

Thank you, Senator Diaz, for this resolution approved today commemorating the Dominican Heritage Month, recognizing the efforts, the fights, the resiliency of the Dominican people that emigrated to this big and generous country.

In Dominican Republic, sometimes people used to say that Dominicanos ausentes. It was, it was, as I said -- and I know, my dear fellow Dominicans, why I say that.

Because my father lived in New York since 1963. My mother was raised for many years in this country, and then back to the Dominican Republic, and then back to the U.S.

And I know how Dominicans are really hard fighters to raise their families, to raise their children, and to take really the opportunities open for this generous country.

For us in the Dominican Republic, for me especially, I feel really very proud to be here today, to share this opportunity with many friends of the Dominican Republic, especially to our friend in Washington, former Congressman Bob Garcia, that has been for many, many years a good friend of the Dominican community here in New York City and in the Bronx.

We will remember this day, Senator Diaz, because not only for the Dominicans who are here today, women and men, for more than 800,000 Dominicans that live here in this big city -- because as I said to the Honorable Governor Paterson today, New York is the second largest city of the Dominican Republic.

Thank you very much, as I said, from the bottom of my heart, on behalf of the general consul of the Dominican Republic, Rafael Evans, the man in charge, working hard here shoulder by shoulder every day with the Dominicans living in this big city.

For us has been a blessing to the opportunities open to the Dominican baseball players. This year, in a decision of the American National League, maybe we will have up to 84 Dominican baseball players. This has been one of the other blessings of the love for the Dominican Republic.

In this year that we commemorate the 166th anniversary of our independence, thank you for remembering the founding fathers of our country -- Duarte, Sanchez and Mella. Thank you to you all. God bless you, Dominican Republic, and God bless the United States of America.

Thank you very much.

(Applause.)

ACTING PRESIDENT BRESLIN: Thank you very much, Ambassador Saladin.

Senator Adams.

SENATOR ADAMS: Thank you, Mr. President.

I want to thank Senator Diaz and Senator Sampson for this important day that we celebrate Dominican Republic Independence Day.

You know, whenever we have these celebrations and acknowledgments, I always like to pause for a moment and do a period of true reflection. Because we can honor the first senators, we can honor the established baseball players, we can honor the doctors and lawyers and other professional types. But to me, it is -- we need to sometimes pause for a moment and just go back. And don't look at where we are today, because we need a period of reflection.

Nothing is more challenging than to come to a country and you can't speak the language. Nothing is more difficult and intimidating than to walk into a grocery store and try to find the right term of just saying a bottle of milk for your baby. Nothing is more frightening than to walk to a token booth and try to identify what is the correct denomination to buy a token. Nothing is more

alarming than to rush into a hospital and try to remember those few texts and terminologies that you may have heard as a child and say "How do I get help for my family?"

So it's fine to acknowledge the first senators, it's fine to acknowledge the large baseball players, it's fine to acknowledge the basketball players, the actors and actresses. But I want to talk about the real-life players on the field of life called the first parents that came here from the Dominican Republic and carved the way for all of us who said we are the first.

And there's a common denomination that not only can I identify with it, but when you talk to the first Italian-Americans and their parents that had to navigate the complexities of New York City and the United States, they can also identify with it. The first Irish. The first any other group from Italian-Americans and Chinese-Americans and Indonesian-Americans.

And so what the first man and woman -- before the stores were open, before taking over the livery cab industry -- what

they did by coming here and saying we too love America, we too will have a foothold in America, we too are proud in America, and the waving of our flag in no way indicates that we too do not cherish the red, white and blue of America.

So I want too take my hat off to the countless number of first arrivals from the Dominican Republic after the freedom from the Haitian revolution. I want to take my hat off to those first men and women who came to America and paved the way and navigated the complexities, the difficulties, the uncertainties and the feeling of being ostracized and forced their way to be included in this thing we call America. They are part of the common denomination that's what's great about every immigrant population.

So before we start, from Maine to Florida, from Washington to New York, to talk about closing our borders and restricting those from outside our borders to participate in the American dream, we need to see what the Dominican community has done to the soil of our country. The diversity, the style, the

commitment, the dedication fertilize the soil and give us an opportunity to grow the trees of tomorrow that allow us to participate in what's great about this country. The Dominican community has shown that.

And I'm proud to say I may be African-American, but today I'm Dominican, baby.

(Applause.)

ACTING PRESIDENT BRESLIN: Thank you, Senator Adams.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I rise to congratulate Senator Diaz on his resolution today and to declare with him that this is a very worthy cause and occasion to do so.

Let me say that although 166 years ago the Dominican Republic declared its independence from Haiti, I want to thank personally the Dominican Republic for being the first on the ground to provide assistance to that country when it was shaken by earthquake. Two hundred thirty thousand

people were reported dead, and over $3 million of hard-earned dollars came from the Dominican Republic first to ensure that aid was brought.

So I congratulate you, Senator Diaz, today -- but I thank you as the delegation from the Dominican Republic for the work that you have done for the people who once were your people, and you came back, reached across your hand, and brought them back to the bosom of safety. And so for that we are most grateful.

And I want to congratulate again Senator Sampson and all of those who have made this possible.

Greetings to my former colleague. Senator Garcia, we missed at the you at the last Senate dinner. Please be present this year; I'm going to be the new president. I look forward to seeing you.

And certainly to you, Mr. President, I certainly will be signing onto this resolution today with tremendous pride. Thank you.

(Applause.)

ACTING PRESIDENT BRESLIN: Thank

you, Senator Hassell-Thompson.

Senator Espada.

SENATOR ESPADA: Thank you, Mr. President.

And in the great tradition of this chamber, I also rise to pay tribute to La Republica Dominicana, to all the Dominicans that make up the great proportion of Hispanics in the 33rd Senate district that I'm privileged to represent.

Senator Diaz, thank you so very, very much. Whether it's going to Puerto Rico to deal with issues of parity and justice in Puerto Rico, Haiti, Santo Domingo, we thank you so much for your leadership.

We thank you for acknowledging the great service of our first senator. As I came from Puerto Rico, we got to know what politics was about because of the service of Robert Garcia, Congressman Garcia, Senator Garcia, a true mentor and leader in our community.

I do want to hone in on the spirit of the message that Senator Eric Adams hit on. And that is as this nation struggles with immigration policy, as we struggle to define

who belongs, who doesn't belong, who can contribute, who can't contribute, who can't be part of the fabric of America, this is what we need to remember here today.

We need to remember this experience. We need to hone in on what's happening in our local economies as we totally transform the Washington Heights, the South Bronx, the West Bronx and communities all throughout the Northeast. We need to hone in on this message absolutely, because this is the spirit that will get us out of the economic doldrums that we're in.

This is the spirit of America. It looks a little different, yes. It may not speak the English language first and foremost, but it is as passionate about being American as any, any other group that's ever been privileged to be called American.

And the challenge that they have -- which I did not have, Senator Diaz. I did not have because I was born an American citizen -- to witness, to witness the challenge of that duality, of being back home, of sending money back home, of dealing with truly being a

foreigner in a new nation and acclimating yourself totally -- starting your own business from scratch, learning a new culture, going into school systems that don't even recognize who you are -- this is truly heroic, herculean.

And definitely this month and every month we should remember this example. Because this is the challenge of the 21st century to America: Are we going to deal with the 12 million people -- be they Dominican, Peruvian, Mexicanos -- all throughout the United States of America that are here, that want to be here, that want to contribute?

And so this message resonates beyond Dominican Heritage Month, the 166th anniversary of the Dominican Republic's independence from Haiti. This really, truly is the American future that we're looking on.

[In Spanish]. Thank you very much.

(Applause.)

ACTING PRESIDENT BRESLIN: Thank you, Senator Espada.

Senator Serrano.

SENATOR SERRANO: Thank you, Mr. President.

I want to echo the sentiments of my colleagues here and thank Senator Diaz for bringing this resolution here to the floor and having so many pioneers in the Dominican community here with us in this chamber here.

I strongly agree with everything that's been said. The Dominican community is a very robust community in New York City and throughout this state. Not anyone to be held back by obstacles. As Senator Espada mentioned, issues in immigration and very unfair, in my belief, immigration policies under federal government have made it very difficult for new immigrants to gain a foothold here in the United States, people who really love this country and people who want to work hard.

But when you look at pretty much all sectors in public life or in private business, the Dominican community has excelled, not being held back by the obstacles that are placed before them. And I think it's a lesson that everyone could learn, that the

American dream can be achieved despite strong odds. And that a community can thrive and enrich us in so many ways, because the Dominican community also teaches us to celebrate life, and I think that that's something that should not be discounted here today.

So I congratulate all of my colleagues here and Senator Diaz once again for supporting and making this day a reality.

Thank you.

(Applause.)

ACTING PRESIDENT BRESLIN: Thank you, Senator Serrano.

Senator Padavan.

SENATOR PADAVAN: Senator Garcia [sic], thank you very much. You really know how to throw a party; in this case, a celebration, and a very, very excellent one.

Ambassador, we're delighted to have you with us, particularly joined by my former colleague Senator Garcia. He and I spent a lot of quality time here on the floor of this Senate for many years. It's great to see him back here.

You know, Senator Garcia, you pointed out the many areas of -- Senator Diaz. Didn't I say Diaz? Well, see, I got you confused already -- the many areas in which Dominicans have excelled and contributed to our society throughout the state, and certainly in New York City and in my borough of Queens and in my district. And you're absolutely right. The last month or so, I attended two events that highlight the very issue and very point you were making.

One of them was a swearing in of a woman to the Supreme Court by the name of Diccia Pineda, Dominican. Came to this country, could not speak English at all, went to law school, raised a family, and became a Supreme Court judge. A constituent of mine, and I was certainly delighted to be there.

Several weeks ago I attended an art show of beautiful work done by a very accomplished Dominican artist in Whitestone, Queens. Every year she has a show. This year it was particularly significant because the proceeds were to go to Haiti, and so many of us showed up there to contribute as best we

could.

But throughout the borough and throughout my district and throughout the City of New York, what you said, and you said it extremely well, the Dominican community has excelled in every area that they have sought to participate. And it's to their credit, and we benefit by it, we all do. And we all join with you in this expression of pride and accomplishment. And you've made this city a better place because of your presence.

Thank you, Senator.

(Applause.)

ACTING PRESIDENT BRESLIN: Thank you, Senator Padavan.

Senator Parker.

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

Let me add my voice to those today who are singing the praises of the people of the Dominican Republic. Let me say congratulations. As the chair of the Senate Task Force on New Americans, I have worked very closely with members of the Dominican community.

Let me welcome you, let me welcome our former colleague Senator Garcia, and really just say that this is a time for celebration. And as Senator Adams says, we must reflect, but it's important for us to remember and celebrate accomplishments. Because the road has been hard and long, and you've toiled for such a long time in the vineyards. But now is a new day.

And now, when all things become possible, we look forward to a time when the Dominican Republic will continue to be a shining star for not just the people of the Caribbean Basin but for the entire world -- first in how they acted in Haiti, but in also the day-to-day accomplishments that we have interacted with people in our communities. And that is from, you know, celebrity athletes, you know, to businesspeople, to our neighbors and our friends.

And so to you all, we say congratulations and thank you so much for what you've done for all of us and the people of this great state.

(Applause.)

ACTING PRESIDENT BRESLIN: Thank you, Senator Parker.

Senator Perkins.

SENATOR PERKINS: Thank you, Mr. Chairman. On the resolution.

[In Spanish.]

(Applause.)

SENATOR PERKINS: Muchas gracias, Senator Diaz and Senator Sampson, for the opportunity you have given us to recognize the great contributions of the Dominican community.

You know, I used to represent the largest Dominican community in the State of New York. And I was very privileged in that period because I got the opportunity to witness their industriousness in so many different ways: Los bodegueros, the folks that own the corner stores that were run by the Dominicans that without them, many of us could not get our daily groceries because of the lack of A&Ps and other kinds of supermarkets in our neighborhoods. The gypsy cabs that would be the only ones available because the Yellow Cabs boycotted our

neighborhoods.

But most interesting about these Dominicans is this. When it came to politics, when it came to politics, they were number one.

I had the opportunity to witness their fervor and their organizing when it comes to electoral politics in two ways. First, whenever there was an election in the Dominican Republic, it began in Washington Heights.

(Laughter.)

SENATOR PERKINS: There were more votes coming out of Washington Heights for presidente in the Dominican Republic than in the Dominican Republic, because they organized caravans as if you thought the election was taking place in the neighborhood, that the vote was going to be for a candidate in the neighborhood.

So they were very committed not only to the neighborhood in Washington Heights, but also to the continuation of what's going on in their community.

But even more interesting than that

was when we used to have school board elections in New York City -- before mayoral control, when parents and others were allowed to participate in making the decisions as to who would run their local schools. Some of you outside of New York City still have that opportunity. We, unfortunately, are stuck with mayoral control and charter schools. I'm sorry, I got off the subject.

(Laughter; applause.)

SENATOR PERKINS: But if you ever had the opportunity to witness a school board election in District 6, which is in Washington Heights, you would see such an awesome turnout. And these folks were not citizens yet, they were only given the opportunity to vote as parent voters.

And I happened to have the opportunity to witness those elections as they took place, and the largest turnout for those school board elections came out of Washington Heights and the Dominican community. And thus we got the first elected Dominican, Guillermo Linares, to the City Council. And now, of course, we have several others -- Adriano

Espaillat, who is in the Assembly.

And the list goes on and on in terms of how, as they became more registered to vote and they got more politically involved, they've become a very, very significant political force, political entity in New York City politics and I would daresay state politics.

So my hat's off to you for what you have done to bring them to our chamber to be acknowledged. My hat's off to you for your commitment to the political process, the democratic political process -- which is what we are all about in this chamber -- and for the successes that you have had that have contributed so greatly to our city and to our state. It was not just an election for the people of Washington Heights.

Now, I know, Senator Diaz, there's more Dominicans in the Bronx than there is in Upper Manhattan. I understand, I accept that. I've been to your parade, okay, up there too. But nevertheless, it began in the northern part of my district known as Washington Heights -- sometimes known as Upper Harlem.

Thank you so much.

Congratulations.

(Applause.)

ACTING PRESIDENT BRESLIN: Thank you, Senator Perkins.

Senator Stewart-Cousins.

SENATOR STEWART-COUSINS: Yes, I just wanted to join in this celebration and thank the Dominican community for bringing so much joy and so much celebration to our chambers.

I also wanted to express, from Westchester County, the pride and the joy that we have in having a growing and robust Dominican community. And I want to say in my hometown of Yonkers we are proud to add to the history of the Dominican community, because we have for the first time elected a Dominican city councilperson by the name of Wilson Terrero.

Que viva Republica Dominicana! Thank you.

(Applause.)

ACTING PRESIDENT BRESLIN: Thank you, Senator Stewart-Cousins.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. [In Spanish.]

I'm very, very pleased that my colleagues here get a chance to see the spirit of the Dominican Republic and experience the joy of being a part of a Dominican community, because I have my colleagues on the other side of the aisle to thank for my beautiful experience in the Dominican community.

But [in Spanish].

(Applause.)

SENATOR SCHNEIDERMAN: [In Spanish.] I'm just explaining I didn't know much about the Dominican Republic when you guys sent me into Upper Manhattan.

But the Dominican community is very generous, and generous at a level people here in the United States very seldom appreciate. I'll tell you one thing I learned when I was drawn into this district and got to know the Dominicans. Studying the history of the Jewish people, the only country in the world that said we will take all the Jews trying to get out of Germany and Central Europe when the

Nazis took over was the Republica Dominicana.

(Applause.)

SENATOR SCHNEIDERMAN: And to this day, in the community of Sosua, you can see the museum and the synagogue there.

This is a community that welcomes, this is a community that embraces, this is a community -- el espirito Dominicana es increible. Corazon Dominicano es grande. [In Spanish.] Viva la Republicano Dominicana!

(Applause.)

ACTING PRESIDENT BRESLIN: Viva la Schneiderman.

Thank you, Senator Schneiderman.

Senator Stavisky.

SENATOR STAVISKY: Yes, thank you, Mr. President.

I too was going to mention the fact that the Dominican Republic was welcoming to people as a refuge from terror and from terrible, terrible destruction. And that is something that you will never forget.

I do want to welcome, though, I want to welcome back my friend Senator Garcia whom I have known for so many years. And in

fact he attended a high school -- which no longer exists, but a high school where I had my first teaching job. It was called Haaren High School. It was on 59th Street and Tenth Avenue. I taught there in the sixties.

And, Senator Garcia, welcome home.

And, secondly, I think it's appropriate that we celebrate the birthday, the 142nd birthday of W.E.B. Du Bois, because today is a day of welcoming people. We are a nation of immigrants, and I am so proud to represent so many people from the Dominican Republic. I used to represent Jackson Heights and parts of Queens. With redistricting, my lines changed.

But you make us proud, and we welcome you to Albany. And we extend all of the congratulations. But especially let me welcome home my friend Congressman Garcia.

(Applause.)

SENATOR STAVISKY: Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: We would also acknowledge the Honorable Hector Ramirez, who is here, who's the executive

board member from the 86th Assembly District leader.

The question is on the resolution All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

(Applause.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT BRESLIN: Oh, Senator Padavan, excuse me.

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

At this juncture I ask that a quorum call be held, each voice vote in toto be read, each name, and the bell be rung.

ACTING PRESIDENT BRESLIN: The Secretary will conduct a quorum call.

The Secretary will read.

THE SECRETARY: Senator Adams.
SENATOR ADAMS: Aye.
ACTING PRESIDENT BRESLIN: Senator Addabbo.
SENATOR ADDABBO: Aye.
THE SECRETARY: Senator Alesi.
SENATOR ALESI: Here.
THE SECRETARY: Senator Aubertine.
SENATOR AUBERTINE: Here.
THE SECRETARY: Senator Bonacic.
SENATOR BONACIC: Here.
THE SECRETARY: Senator Breslin.
SENATOR BRESLIN: Here.
THE SECRETARY: Senator DeFrancisco.
SENATOR DeFRANCISCO: Here.
THE SECRETARY: Senator Diaz.
(No response.)
THE SECRETARY: Senator Dilan.
SENATOR DILAN: Here.
THE SECRETARY: Senator Duane.
(No response.)
THE SECRETARY: Senator Espada.
SENATOR ESPADA: Present.

THE SECRETARY: Senator Farley.
SENATOR FARLEY: Here.
THE SECRETARY: Senator Flanagan.
SENATOR FLANAGAN: Here.
THE SECRETARY: Senator Foley.
SENATOR FOLEY: Present.
THE SECRETARY: Senator Fuschillo.
SENATOR FUSCHILLO: Present.
THE SECRETARY: Senator Golden.
SENATOR GOLDEN: Here.
THE SECRETARY: Senator Griffo.
SENATOR GRIFFO: Here.
THE SECRETARY: Senator Hannon, excused.
Senator Hassell-Thompson.
SENATOR HASSELL-THOMPSON: Here.
THE SECRETARY: Senator Huntley.
SENATOR HUNTLEY: Here.
THE SECRETARY: Senator C. Johnson.
SENATOR CRAIG JOHNSON: Here.
THE SECRETARY: Senator O. Johnson.
SENATOR OWEN JOHNSON: Here.

THE SECRETARY: Senator Klein.
SENATOR KLEIN: Present.
THE SECRETARY: Senator L. Krueger.
SENATOR LIZ KRUEGER: Here.
THE SECRETARY: Senator C. Kruger.
SENATOR CARL KRUGER: Here.
THE SECRETARY: Senator Lanza.
SENATOR LANZA: Here.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Here.
THE SECRETARY: Senator LaValle.
SENATOR LaVALLE: Here.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Here.
THE SECRETARY: Senator Libous.
(No response.)
THE SECRETARY: Senator Little.
SENATOR LITTLE: Here.
THE SECRETARY: Senator Marcellino.
SENATOR MARCELLINO: Here.
THE SECRETARY: Senator Maziarz.
SENATOR MAZIARZ: Here.

THE SECRETARY: Senator McDonald.
SENATOR McDONALD: Here.
THE SECRETARY: Senator Montgomery.
SENATOR MONTGOMERY: Here.
THE SECRETARY: Senator Morahan, excused.
Senator Nozzolio.
SENATOR NOZZOLIO: Present.
ACTING PRESIDENT BRESLIN: Senator Padavan, a quorum is present.
SENATOR PADAVAN: I asked for all names to be read, Mr. President.
ACTING PRESIDENT BRESLIN: There is nothing in the rules that requires that all be read. There's a quorum present. We will move on.
Senator Klein.
SENATOR KLEIN: Mr. President, if we can return to the order of reports of standing committees, I believe there is a report of the Finance Committee at the desk.
ACTING PRESIDENT BRESLIN: Returning to the order of reports of standing committees, there is a report of the Finance

Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator C. Kruger, from the Committee on Finance, reports the following nominations.

As a member of the New York State Racing and Wagering Board, Charles J. Diamond, of Watervliet.

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Please move the nomination.

ACTING PRESIDENT BRESLIN: The question is on the motion to confirm the nomination of Charles J. Diamond to the New York State Racing and Wagering Board. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(Response of "Nay.")

SENATOR WINNER: Show of hands.

SENATOR PADAVAN: Slow roll call, please.

ACTING PRESIDENT BRESLIN: A slow

roll call is only appropriate on the final passage of a bill.

SENATOR PADAVAN: Five of us will stand up to ensure that fact.

Now a slow roll call.

ACTING PRESIDENT BRESLIN: With the five standing up, you're allowed a written vote, but not a slow roll call.

All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT BRESLIN: The nomination is confirmed.

Congratulations, Mr. Diamond.

(Applause.)

ACTING PRESIDENT BRESLIN: Mr. Diamond is joined in the gallery by his wife, Giovina; by his children, Bridget and Rob; and by his brother John and his sister Barbara; and by his long-time employer, Congressman Michael McNulty.

Congratulations, Charles.

(Applause.)

SENATOR PADAVAN: Mr. President.

ACTING PRESIDENT BRESLIN: Yes, Senator Padavan.

SENATOR PADAVAN: A point of information.

Since there was no show of hands, how was the written vote recorded?

ACTING PRESIDENT BRESLIN: We can record that now.

SENATOR PADAVAN: Thank you very much. Show of hands.

ACTING PRESIDENT BRESLIN: All those in favor of the nomination please signify by raising their hand.

The Secretary will announce the results.

THE SECRETARY: Ayes, 31. Nays, 27.

(Applause.)

ACTING PRESIDENT BRESLIN: The nomination is confirmed.

Senator Padavan, why do you rise?

SENATOR PADAVAN: Mr. President, 31 votes does not either pass a bill or

confirm a nominee; 32 votes does.

ACTING PRESIDENT BRESLIN: Authority, please, Senator Padavan?

SENATOR PADAVAN: Now, if you recorded 31 votes, then this nominee was not confirmed.

ACTING PRESIDENT BRESLIN: Senator Padavan, I've asked you to recite your authority.

SENATOR PADAVAN: I can recite it, perhaps not from memory, but if you read the rules it says very clearly that an act of this body is by a majority of its members, who are recorded at 32 at this juncture.

Now, you reported 31. I think that's a fact we all acknowledge.

ACTING PRESIDENT BRESLIN: Senator Padavan, the votes required for the confirmation of a gubernatorial nomination is not outlined in the Senate rules.

According to Mason's Legislative Manual, Section 510, subsection 2, in the absence of an express rule the default requirement is a majority of those Senators present and voting.

Therefore, your point of order is not in order.

SENATOR PADAVAN: Mr. President, I challenge the ruling of the chair.

ACTING PRESIDENT BRESLIN: All those in favor of challenging the ruling of the chair raise your hand.

The Secretary will announce the results.

SENATOR SALAND: Mr. President, point of order, please.

ACTING PRESIDENT BRESLIN: Please await the tabulation.

The Secretary will announce the results.

SENATOR SALAND: Before you start the vote, point of order, if you would.

ACTING PRESIDENT BRESLIN: We're disposing of the first point of order, Senator Saland. Could you please wait?

SENATOR SALAND: Okay. Thank you, sir.

THE SECRETARY: Ayes, 27. Nays, 31.

ACTING PRESIDENT BRESLIN: The

ruling of the chair is confirmed.

The Secretary will continue to read, with the exception of Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, the purpose of my point of order is to determine whether the ruling of the chair was that the motion that you currently deem passed was a substantive motion or a procedural motion.

ACTING PRESIDENT BRESLIN: It simply stated the factual component of it is the motion was on the confirmation of a gubernatorial appointment.

SENATOR SALAND: Mr. President, if I may continue, I believe you said -- you cited Mason's as the default in the absence of anything relevant or governing in our rules.

And I think our rules make a distinction -- I don't have it in front of me -- between what is required by way of a majority vote or a quorum vote, depending upon whether the vote is deemed substantive or procedural and whether, in this advice and consent capacity, this is deemed a substantive

vote or a procedural vote.

And I'm merely asking whether you have deemed this to be a substantive or a procedural vote.

ACTING PRESIDENT BRESLIN: Senator Saland, the chair has not made that determination. The determination is not relevant to this.

This is solely on a gubernatorial appointment. The gubernatorial appointment has been approved.

SENATOR SALAND: I would really, merely for purposes of the record, state that what's relevant here is whether it's substantive or procedural before you can default to Mason's.

ACTING PRESIDENT BRESLIN: What is your specific point of order?

SENATOR SALAND: My specific point of order is before you can default to a Mason's, the determination has to be -- you've made a determination that in fact there's nothing controlling in our rules. And by your saying nothing is controlling in our rules, you're failing to recognize a distinction in

the rules between substantive and procedural.

ACTING PRESIDENT BRESLIN: I would say that that's asked and answered. The nomination is confirmed.

Let's move on. The Secretary will read.

THE SECRETARY: As a member of the State Board of Parole, Elisabeth Gotbaum, of New York City.

SENATOR CARL KRUGER: On the nomination, please move it.

ACTING PRESIDENT BRESLIN: Senator Hassell-Thompson, on the nomination.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I rise to thank the Governor for the appointment of Elisabeth "Betsy" Gotbaum.

She came before the committee and, prior to her presentation to us, she has a long history of public service that would make her duly fit for this position, and for this I am here to present her name in nomination.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Huntley.

SENATOR HUNTLEY: Thank you, Mr. President.

I rise to congratulate Betsy, who I have known for many, many years, have worked in many different capacities with her. And I also send regards to her family.

And I have to say she's an excellent choice, and I thank the Governor for making such a great, great choice.

Thank you.

ACTING PRESIDENT BRESLIN: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. I also rise in support of this nominee.

Ms. Gotbaum is a great New Yorker. She's been in public service for many years, going back to working on the staff of a Republican mayor, John Lindsay.

She is really one of those people who embodies the ethic of giving back to the community. Her work as parks commissioner, her work for the New York Police Foundation, her work in saving the New York Historical Society -- she's just a great New Yorker.

She will make a great addition to the government. I look forward to working with her in the area of criminal justice. The State of New York and all of us are lucky to have her continued willingness to serve.

I strongly urge everyone to vote in support of this nominee, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Schneiderman.

Senator Adams, on the nomination.

SENATOR ADAMS: Thank you, Mr. President.

I too rise and I really appreciate just the lifetime of service of Ms. Gotbaum.

And I remember during the Sean Bell shooting and the hearings we held, the long hearings throughout the entire city, and just your commitment, you came early, you stayed throughout the entire hearings, you heard the concerns of all the various communities, and you continued just to repeatedly show what's best about the greatest race alive, and that's the human race.

And I'm glad that you are a friend and you will continue to contribute to the

great State of New York.

ACTING PRESIDENT BRESLIN: Thank you, Senator Adams.

Senator Stavisky.

SENATOR STAVISKY: Thank you, Mr. President.

I too am proud to call Betsy Gotbaum a friend. She brings a wonderful breadth of experience to state government -- first, commissioner of the Parks and Recreation Department, New York Historical Society, public advocate -- you name it, Betsy Gotbaum has been there, she's done it.

And I think it's exciting that she is bringing this experience to state government. And there is no doubt that she's embarking on a new career, but at the same time there are so many people here who have so much respect for Betsy Gotbaum and for Victor, her husband.

And we just congratulate her on her nomination.

Thank you, Mr. President.

ACTING PRESIDENT BRESLIN: Thank you, Senator Stavisky.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Very briefly, those of us who have had the pleasure of knowing Betsy through many years know that she is a perfect person for this, because she's creative, innovative, thoughtful. And also it should be mentioned that she's generous and kind.

And I think the combination of intellect and compassion will serve her very well in this job. And each time she takes on a new job, she does it with great enthusiasm.

And so we're very happy that you are still willing to keep trying again and again to fulfill the role that you see for yourself, which is really being a person of the community, a person there to help others.

Thanks, Betsy.

ACTING PRESIDENT BRESLIN: Thank you, Senator Oppenheimer.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President.

I too rise in strong support of Betsy Gotbaum's nomination. From Betsy's

really amazing work as the New York City parks commissioner during very, very difficult economic times, where she was able to make improvements to parks and to make do with less, but make sure that parks were available for New Yorkers to use -- the job she did during those difficult times was really amazing.

And also her work to preserve all of the very important parts of New York's history, with her work at the Historical Society. Again, during very, very difficult times for that institution, she worked very hard to make sure that that institution was able not just to survive but to set it up so that it could thrive.

And I think the other important thing is that Betsy Gotbaum's life has not been without adversity, without tragedy. And she already brought sort of institutionally smarts and compassion to every job that she did, but I also think that her life experience, her most recent life experience also will serve her well in a new job, and I know she'll use that life experience in her

new position.

So I think that the Governor has really made an excellent choice, and I strongly recommend a yes vote on this nomination, Mr. President.

ACTING PRESIDENT BRESLIN: Senator Savino.

SENATOR SAVINO: Thank you, Mr. President. I'll be very brief on behalf my friend Betsy Gotbaum.

And you've heard many of the people here today call her friend, and she is. She's a friend not just to us personally, but she's been a friend to the City of New York. And I'm going to commend the Governor and congratulate him on his appointment.

You know, generally when people come in to be interviewed by whatever the particular committee is for whatever the particular position is, we get a resume or a little curriculum vitae. But Betsy Gotbaum's life work has been so rich and so varied that she had to send in her biography. And what is a biography it is. You all have it; you can read it.

And interestingly, like a lot of women of her generation, she doesn't hide behind the powerful man that she was married to. He's right on the bottom of the last page -- just as a footnote, she's married to Victor Gotbaum.

Both Betsy and Victor have been real friends of the City of New York in so many ways. All of you know their history.

And I will tell you, I'm not sure why Betsy wants to continue working. I thought she was going to start to enjoy retirement. But I'm glad you're not.

Congratulations to you, to Victor and your entire family.

Thank you.

ACTING PRESIDENT BRESLIN: The question is on the nomination. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(Response of "Nay.")

SENATOR PADAVAN: Slow roll call, Mr. President, if we may.

ACTING PRESIDENT BRESLIN: Do five Senators rise to request that recording?

All those in favor of the nomination please signify by raising their hand.

The Secretary will announce the results.

THE SECRETARY: Ayes, 31. Nays, 27.

ACTING PRESIDENT BRESLIN: The nomination is hereby confirmed.

SENATOR PADAVAN: Point of order, Mr. President.

Once again, if I may -- and I'll be very brief -- your determination that this confirmation took place by 31 votes is contrary to what has happened in this Senate for as long as I have been here, and that's 38 years. Namely, that a majority, one more than half of the numbers of the Senators, must confirm.

That has not taken place. Your deference to Mason's, as pointed out by Senator Saland, indicated that this was a procedural matter, which I believe it is not.

It is a substantive matter. Advice and consent is a substantive matter. To say otherwise demeans not only the process but also the nominees and the power of the Governor.

ACTING PRESIDENT BRESLIN: Senator Padavan, this is a gubernatorial appointment. There's nothing in the rules to outline it. We go to Mason's. And I would rest back with what I previously ruled.

The point of order therefore is out of order.

SENATOR PADAVAN: Appeal the ruling of the chair.

ACTING PRESIDENT BRESLIN: All those in favor of overruling the chair please raise their hands.

The Secretary will announce the results.

THE SECRETARY: Ayes, 26. Nays, 31.

ACTING PRESIDENT BRESLIN: The ruling of the chair is affirmed.

The motion carries. The nomination of Elisabeth F. Gotbaum is hereby confirmed.

Congratulations, Ms. Gotbaum.

(Applause.)

ACTING PRESIDENT BRESLIN: Senator Klein.

SENATOR KLEIN: Mr. President, can we please return to motions and resolutions and please take up resolution Number 3908, by Senator Aubertine. I move that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT BRESLIN: The Secretary will read.

THE SECRETARY: By Senator Aubertine, Legislative Resolution Number 3908, memorializing Governor David A. Paterson to proclaim February 20 through 27, 2010, as Future Farmers of America Week in the State of New York.

ACTING PRESIDENT BRESLIN: The question is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Mr. President, can we now go back and finish the standing committees.

I believe there's a report of the Finance Committee. Can we continue with the report of the Finance Committee.

ACTING PRESIDENT BRESLIN: Yes. The Secretary will read.

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

As a members of the Finger Lakes State Park, Recreation and Historic Preservation Commission, Robert K. Bergan, of Auburn.

As a member of the Palisades Interstate Park Commission, Keith Cornell, of Valley Cottage.

As a member of the State Park, Recreation and Historic Preservation Commission for the City of New York, Michael Tannen, of New York City.

As members of the Advisory Council on Agriculture, Joy D. Crist, of Walden; Cheryl K. Horton, of Philadelphia; and Daniel J. McGarr, of King Ferry.

As a member of the Capital District Transportation Authority, Lisa A. Ballout, of Clifton Park.

As a member of the Central New York Regional Transportation Authority, Robert F. Cuculich, of Liverpool.

As a member of the Republic Airport Commission, Stella M. Barbera, of Lindenhurst.

As a member of the Thousand Islands State Park, Recreation and Historic Preservation Commission, Joseph Chavoustie, of Cape Vincent.

As director of the New York Convention Center Operating Corporation, Jeffrey Scruggs, of New York City.

And as commissioners of the State Insurance Fund, Eileen Frank, of New York City, and Robert H. Hurlbut, of Honeoye Falls.

ACTING PRESIDENT BRESLIN: Senator Kruger.

SENATOR CARL KRUGER: Please move

all the nominations.

ACTING PRESIDENT BRESLIN: Are there any Senators wishing to be heard on the nominations?

The question is then on the confirmation of the nominations. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT BRESLIN: Opposed, nay.

(No response.)

ACTING PRESIDENT BRESLIN: The motion carries. The nominations are confirmed.

Senator Klein.

SENATOR KLEIN: Mr. President, is there any further business at the desk?

ACTING PRESIDENT BRESLIN: Senator Klein, the desk is clear.

SENATOR KLEIN: There being none, I move we adjourn until tomorrow, Wednesday, February 24th, at 2:00 p.m.

ACTING PRESIDENT BRESLIN: There being no further business to come before the Senate, on motion, the Senate stands adjourned

until Wednesday, February 24th, at 2:00 p.m.

(Whereupon, at 6:48 p.m., the Senate adjourned.)