NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

November 29, 2010

4:08 p.m.

EXTRAORDINARY SESSION III

SENATOR DIANE SAVINO, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

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

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

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

ACTING PRESIDENT SAVINO: In the absence of clergy, may we all bow our heads for a moment of silence.

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

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, is there a proclamation from the Governor at the desk?

ACTING PRESIDENT SAVINO: Yes, Senator Klein, there is a proclamation at the desk.

The Secretary will read.

THE SECRETARY: "Pursuant to the power vested in me by Article IV, Section 3 of the Constitution, I hereby convene the Senate and the Assembly of the State of New York in

Extraordinary Session, at the Capitol, in the City of Albany, on the twenty-ninth day of November, two thousand ten, at three o'clock p.m., for the purpose of considering legislation I will submit with respect to various subjects and acting on gubernatorial nominations.

"Given under my hand and the Privy Seal of the State, in the City of Albany this twenty-third day of November in the year two thousand ten.

"By the Governor, David A. Paterson."

ACTING PRESIDENT SAVINO: The proclamation from the Governor has been read, and the Senate is in extraordinary session.

Senator Klein.

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

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: In Extraordinary

Session Number III, Senate Resolution Number 1, by Senator Sampson, providing for the introduction of bills in the Senate during the extraordinary session.

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

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The concurrent resolution is adopted.

Senator Klein.

SENATOR KLEIN: Madam President, at this time can you please call on Senator Libous.

ACTING PRESIDENT SAVINO: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President. There will be a brief Republican conference at this moment.

ACTING PRESIDENT SAVINO: There be a brief meeting of the Republican Conference.

The Senate will stand at ease pending the return.

(Whereupon, the Senate stood at ease at 4:11 p.m.)

(Whereupon, the Senate reconvened at 5:17 p.m.)

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

Senator Klein.

SENATOR KLEIN: Madam President, I believe there's a report of the Judiciary Committee at the desk. I ask that the report be read at this time.

ACTING PRESIDENT SAVINO: Senator Klein, there is a report of the Judiciary Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator Sampson, from the Committee on Judiciary, reports the following nominations.

As a justice of the Supreme Court for the Second Judicial District, Honorable William C. Donnino, of Syosset.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Please move the nomination.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard on the nomination?

(No response.)

ACTING PRESIDENT SAVINO: Seeing none, the question is on the motion to confirm the nomination of William C. Donnino, of Syosset, as an Interim Justice of the Supreme Court of the Second Judicial District. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT SAVINO: The motion carries. The nomination is confirmed.

Judge Donnino is in the gallery today. Congratulations.

(Applause.)

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: As a justice of the Supreme Court of the Eleventh Judicial

District, Honorable Robert Nahman, of Baywater.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, please move the nomination.

ACTING PRESIDENT SAVINO: Are there any other Senators wishing to be heard?

Senator Onorato.

SENATOR ONORATO: Madam President, I rise to second the nomination of my very dear friend Bob Nahman, who I've known many, many years. We worked together in Queens County. He was a former Astorian.

And I know he's served on the Surrogate Court, he was the surrogate of Queens County. He did an outstanding job; he really made it the talk of the entire City of New York what he did with that organization.

And now he's going to be going back to the Supreme Court that he held before, so we don't have to give him any on-the-job training. He's very well qualified for it.

And I know he's going to do an excellent job, and I wish him the very, very

best of luck. And God bless him and his family.

Thank you.

ACTING PRESIDENT SAVINO: Senator Stavisky.

SENATOR STAVISKY: Thank you, Madam President.

I too want to congratulate Judge Nahman. He did such a great job as surrogate that he's going to come back and give us his expertise on the Supreme Court.

In many respects, Queens County is sort of like a family. And Judge Nahman and Judge Livote are part of our family, and we're very proud of the quality of the judges that we produce in Queens County. And I'm delighted to congratulate both judges on their nomination.

Thank you.

ACTING PRESIDENT SAVINO: Senator Huntley.

SENATOR HUNTLEY: Yes, Madam President. I would like to follow Toby's comments and say congratulations to the judges there from the good old County of Queens,

where I also hail from.

And you find very good people in Queens, right, Judge? And I just want to congratulate and wish you well.

Thank you.

ACTING PRESIDENT SAVINO: Are there any other Senators wishing to be heard on the nomination?

(No response.)

ACTING PRESIDENT SAVINO: Seeing none, the question is on the motion to confirm the nomination of Robert L. Nahman, of Baywater, as an Interim Justice of the Supreme Court Eleventh Judicial District. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT SAVINO: The motion carries. The nomination is confirmed.

Judge Nahman is in the gallery today. Congratulations.

(Applause.)

ACTING PRESIDENT SAVINO: The

Secretary will continue to read.

THE SECRETARY: As a justice of the Supreme Court of the Tenth Judicial District, Honorable Barbara Newman, of New York City.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, please move the nomination.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard on the nomination?

(No response.)

ACTING PRESIDENT SAVINO: Seeing none, the question is on the motion to confirm the nomination of Barbara Newman, of New York City, as an Interim Justice of the Supreme Court of the Tenth Judicial District. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT SAVINO: The motion carries. The nomination is confirmed.

Judge Newman is joined in the gallery today by her husband, Bernard, and her daughter Susan.

Congratulations, Judge Newman.

(Applause.)

ACTING PRESIDENT SAVINO: The Secretary will continue to read.

THE SECRETARY: As a justice of the Supreme Court of the Fourth Judicial District, Honorable Norman Siegel, of New Hartford.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, please move the nomination.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard on the nomination?

Senator Griffo.

SENATOR GRIFFO: Thank you, Madam President.

It is a great privilege that I rise today to support Judge Norm Siegel's appointment to the Supreme Court. The judge has been before this chamber before. He has

had an extraordinary career in legal service. He has had a distinguished tenure on the bench.

I'm proud to know the judge. He has been such an important part of our community and done so much for so many various segments of our community.

So I'm proud that Judge Siegel is here with his wife Ann today, and I wish him well, and I know that he will have equally a distinguished tenure on the Supreme Court.

ACTING PRESIDENT SAVINO: Are there any other Senators wishing to be heard?

(No response.)

ACTING PRESIDENT SAVINO: Seeing none, the question is on the nomination to confirm Norman I. Siegel, of New Hartford, as an Interim Justice of the Supreme Court of the Fourth Judicial District. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The

motion carries. The nomination is confirmed.

Judge Siegel is joined in the gallery today by his wife, Ann.

Congratulations.

(Applause.)

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Glen Bruening, of Guilderland.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, please move the nomination.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard on the nomination?

Senator Breslin.

SENATOR BRESLIN: Thank you very much, Madam President.

It's my honor to rise and support the nomination of Glen Bruening, who is a resident of my district. You only have to look briefly at his resume and look at the wonderful background -- in fact, he resided

for many years in Senator Little's district, and has a wonderful background: Parks and Recreation, in the Governor's office, with the Government Law Center, and I could go on and on.

And he is just a wonderful selection by the Governor. We look forward to you serving and seeing you for many years to come, Glen, and congratulations to your family as well.

Thank you very much.

ACTING PRESIDENT SAVINO: Are there any other Senators wishing to be heard?

(No response.)

ACTING PRESIDENT SAVINO: Seeing none, the question is on the motion to confirm the nomination of Glen Bruening, of Guilderland, as a judge of the Court of Claims. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The

motion carries. The nomination is confirmed.

Judge Bruening is joined in the gallery today by his wife, Katie, and his sons Dylan and Carson.

Congratulations.

(Applause.)

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: As a judge of the Court of Claims, Leonard Livote, of Douglaston.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, please move the nomination.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard?

(No response.)

ACTING PRESIDENT SAVINO: Seeing none, the question is on the motion to confirm the nomination of Leonard Livote, of Douglaston, as a judge of the Court of Claims. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The motion carries. The nomination is confirmed.

Judge Livote is joined today in the gallery by his wife, Robin, and his daughter Katherine and son Matthew.

Congratulations.

(Applause.)

ACTING PRESIDENT SAVINO: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, Daniel McCullough, of Brooklyn.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, please move the nomination.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard?

(No response.)

ACTING PRESIDENT SAVINO: Seeing none, the question is on the motion to confirm the nomination of Daniel McCullough, of

Brooklyn, as a judge of the Court of Claims.

All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT SAVINO: The motion carries. The nomination is confirmed.

Judge McCullough is joined in the gallery today by his wife, Arbilla Tucker.

Congratulations.

(Applause.)

ACTING PRESIDENT SAVINO: The Secretary will continue to read.

THE SECRETARY: As a judge of the Court of Claims, David Weinstein, of Glenmont.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, please move the nomination.

ACTING PRESIDENT SAVINO: Are there any Senators -- ah, Senator Breslin.

SENATOR BRESLIN: For the second time, I commend the Governor for an

outstanding appointment.

David Weinstein is a Wesleyan graduate, a cum laude graduate of Harvard Law, worked for a number of years in the Attorney General's office, most recently in the Governor's office. And many members of this body as well as the Assembly dealt with him on pending legislation and came away with a very favorable impression.

I think he's a wonderful new asset to the Court of Claims, and I wish him well.

ACTING PRESIDENT SAVINO: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

I rise to second the nomination of David Weinstein and to thank him publicly for the work that he assisted this body in his work with us on the MWBE as well as on domestic violence, for which he made us look wonderful.

Thank you.

ACTING PRESIDENT SAVINO: Thank you, Senator Hassell-Thompson.

Are there any other Senators

wishing to be heard?

Seeing none, the question is on the motion to confirm the nomination of David Weinstein, of Glenmont, as a judge of the Court of Claims. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The motion carries. The nomination is confirmed.

And I would just like to take a moment to congratulate Judge Weinstein and thank him for his support and his cooperation in working with me and my committee for the last two years.

Judge Weinstein is joined in the gallery today by his wife, Ilyse.

Congratulations.

(Applause.)

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, there will be an immediate meeting of the

Higher Education Committee in the Majority Conference Room, and then a meeting of the Finance Committee. Pending the return of the Rules Committee, which will be directly afterwards, may we please stand at ease.

ACTING PRESIDENT SAVINO: There will be an immediate meeting of the Higher Education Committee in the Majority Conference Room, Room 332, immediate followed by a Finance Committee meeting, followed by a meeting of the Rules Committee.

Pending the return of the Rules Committee, the Senate will stand at ease.

(Whereupon, the Senate stood at ease at 5:29 p.m.)

(Whereupon, the Senate reconvened at 7:40 p.m.)

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

Senator Klein.

SENATOR KLEIN: Madam President, I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT SAVINO: Yes, Senator Klein, 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 Commissioner of the Port Authority of New York and New Jersey, H. Sidney Holmes, III, of New York City.

As a member of the State Council on the Arts, Richard A. Mittenthal, of New York City.

As a member of the Board of Trustees of the City University of New York, Judah Gribetz, of Rockaway Park.

As a member of the Board of Trustees of the City University of New York, Rita DiMartino, of New York City.

As a member of the Board of Trustees of the City University of New York, Wellington Z. Chen, of Little Neck.

And as a member of the Rochester-Genesee Regional Transportation Authority, Scott M. Adair, of West Henrietta.

ACTING PRESIDENT SAVINO: Senator Kruger.

SENATOR CARL KRUGER: Yes, could we please move those nominations.

ACTING PRESIDENT SAVINO: Are there any Senators wishing to be heard on this motion to confirm the nominations?

(No response.)

ACTING PRESIDENT SAVINO: Seeing none, the question is on the motion to confirm the nominations. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

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

Senator Klein.

SENATOR KLEIN: Madam President, I believe there's a report of the Rules Committee at the desk. I move that we adopt the Rules Committee report at this time.

ACTING PRESIDENT SAVINO: There is a report of the Rules Committee at the desk.

The Secretary will read.

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

Extraordinary Session Print Number 2, by the Senate Committee on Rules, an act to amend the Education Law;

Extraordinary Session Print Number 4, by the Senate Committee on Rules, an act to amend Chapter 536 of the Laws of 2010;

Extraordinary Session Print Number 5, by the Senate Committee on Rules, an act to amend the Multiple Dwelling Law; and

Extraordinary Session Print Number 10, by the Senate Committee on Rules, an act in relation to establishing a special commission.

All bills ordered direct to third reading.

ACTING PRESIDENT SAVINO: All those in favor of adopting the Rules Committee report please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT SAVINO: The Rules Committee report is adopted.

Senator Klein.

SENATOR KLEIN: Madam President, may we now move to a reading of the extraordinary session calendar.

ACTING PRESIDENT SAVINO: The Secretary will read.

THE SECRETARY: Calendar Number 2, by the Senate Committee on Rules, Extraordinary Session Print Number 4, an act to amend Chapter 536 of the Laws of 2010, amending the Public Health Law and the Insurance Law.

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 3. This act shall --

ACTING PRESIDENT SAVINO: Senator Libous.

SENATOR LIBOUS: Excuse me, please, Madam President. Could you tell me what calendar number here we're on?

There's bills 1, 2, 3, and 4, and

then they're printed 2, 4, 5 and 10. Could you tell me which bill we're taking up at this moment?

ACTING PRESIDENT SAVINO: Senator Libous, we were about to take up Calendar Number 2, but we're now going to go back and take up Calendar Number 1, and we will go in order.

SENATOR LIBOUS: Thank you, Madam President.

ACTING PRESIDENT SAVINO: You're welcome, Senator Libous.

THE SECRETARY: Calendar Number 1, by the Senate Committee on Rules, Extraordinary Session Print Number 2, an act to amend the Education Law.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, is there a message of necessity and appropriation at the desk?

ACTING PRESIDENT SAVINO: Yes, Senator Klein, there is a message of necessity and appropriation at the desk.

SENATOR KLEIN: Can we move to

accept the message of necessity and appropriation at this time.

ACTING PRESIDENT SAVINO: The question is on the acceptance of the message of necessity and appropriation. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The message is accepted.

SENATOR KLEIN: Madam President, please lay the bill aside for the day.

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

The Secretary will read.

THE SECRETARY: Calendar Number 2, by the Senate Committee on Rules, Extraordinary Session Print Number 4, an act to amend Chapter 536 of the Laws of 2010, appending the Public Health Law and the Insurance Law.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, is there a message of necessity at the desk?

ACTING PRESIDENT SAVINO: Yes, Senator Klein, there is a message of necessity at the desk.

SENATOR KLEIN: Madam President, can we please move to accept the message of necessity at this time.

ACTING PRESIDENT SAVINO: The question is on the acceptance of the message of necessity. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The message is accepted.

Are there any Senators wishing to be heard?

(No response.)

ACTING PRESIDENT SAVINO: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in

the same manner as Chapter 536 of the Laws of 2010.

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT SAVINO: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 3, by the Senate Committee on Rules, Extraordinary Session Print Number 5, an act to amend the Multiple Dwelling Law.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, is there a message of necessity at the desk?

ACTING PRESIDENT SAVINO: Yes, Senator Klein, there is a message of necessity at the desk.

SENATOR KLEIN: I move that we accept the message of necessity at this time.

ACTING PRESIDENT SAVINO: The question is on the acceptance of the message of necessity. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The message is accepted.

Read the last section.

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

ACTING PRESIDENT SAVINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT SAVINO: The bill is passed.

THE SECRETARY: Calendar Number 5, by the Senate Committee on Rules, Extraordinary Session Print Number 10, an act in relation to establishing a special

commission on compensation.

ACTING PRESIDENT SAVINO: Senator Klein.

SENATOR KLEIN: Madam President, is there a message of necessity at the desk?

ACTING PRESIDENT SAVINO: Yes, Senator Klein, there is a message of necessity at the desk.

SENATOR KLEIN: Madam President, I move that we accept the message at this time.

ACTING PRESIDENT SAVINO: The question is on the acceptance of the message of necessity. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT SAVINO: Opposed, nay.

(No response.)

ACTING PRESIDENT SAVINO: The message is accepted.

Read the last section.

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

ACTING PRESIDENT SAVINO: Call

the roll.

(The Secretary called the roll.)

ACTING PRESIDENT SAVINO: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT SAVINO: The bill is passed.

Senator Klein, that completes the reading of the noncontroversial extraordinary session calendar.

SENATOR KLEIN: Madam President, can you please recognize Senator Hassell-Thompson at this time.

ACTING PRESIDENT SAVINO: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

Immediately following this session there will be a meeting of the Majority in the Majority Conference Room.

ACTING PRESIDENT SAVINO: There be a meeting of the Democratic Conference immediately following session in the Majority Conference Room.

Senator Klein.

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

ACTING PRESIDENT SAVINO: No, Senator Klein, the desk is clear.

SENATOR KLEIN: There being no further business, Madam President, I move that we adjourn at the call of the Temporary President.

ACTING PRESIDENT SAVINO: There being no further business to come before the Senate, on motion, the Senate stands adjourned at the call of the Temporary President.

(Whereupon, at 7:49 p.m., the Senate adjourned.)