NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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May 3, 2011

3:18 p.m.

REGULAR SESSION

SENATOR JOSEPH E. ROBACH, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT ROBACH: The Senate will come to order.

I ask everyone present to please join me in the Pledge of Allegiance.

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

ACTING PRESIDENT ROBACH: Our invocation today will be given by Pastor Anthony L. Usher, of the Seventh-Day Adventist Church in Brooklyn, New York.

Pastor Anthony.

PASTOR USHER: Thank you. Let us pray.

Eternal heavenly Father, recognizing that unless the Lord builds the house, they labor in vain that build it, is why once more a group of elected officials pause to pray in the Capitol of the great State of New York.

We thank You for the strong leadership they have given to our state. And in the time that they represent their various constituencies, they play their parts exceedingly well.

We seize this opportunity to invoke Your blessing on our beloved President Barack Obama, that he may continue conducting the affairs of national government with wisdom, bravery, and true justice. With mixed feelings, we are grateful that under his able leadership the saga of bin Laden has finally found closure.

We pray for our newly elected Governor Andrew Cuomo and rejoice today for our bipartisan balanced budget.

We pray for the members of the Congress, that they may truly represent the needs of the people and work in harmony for the advancement of all men, women and children.

We pray for the judges that rule the courts of our land, that they may balance justice with mercy, civil law with divine mandate.

And last but by no means least, we pray for the Senate assembly that is about to convene.

We pray, O heavenly Father, that You will turpentine their imagination with

fresh ideas and new vision for their respective constituencies. And recognizing that You set up kings and remove them, may they always lead ever-conscious of this unmovable truth, that in the days of these kings shall the God of heaven set up His kingdom in which justice will roll down like a mighty stream and righteousness like a mighty river.

Then hasten that day when the last day of earth's history will become the first of eternity. Then shall come to pass the saying: One nation under God, under the bloodstained banner of Prince Emmanuel, indivisible, with liberty and justice for all.

For we ask this in the name that is above all other names. In the name of Jesus we pray. Amen.

ACTING PRESIDENT ROBACH: The reading of the Journal.

THE SECRETARY: In Senate, Monday, May 2nd, the Senate met pursuant to adjournment. The Journal of Sunday, May 1st, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT ROBACH: Without objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 25, Senator Grisanti moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 668 and substitute it for the identical Senate Bill Number 3888, Third Reading Calendar 345.

ACTING PRESIDENT ROBACH: Substitution ordered.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

On behalf of Senator Seward, on page 21 I offer the following amendments to

Calendar Number 269, Senate Print 2382, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: Mr. President, on behalf of Senator Libous, on page 27 I offer the following amendments to Calendar Number 367, Senate Print 3964A, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe we will adopt the Resolution Calendar at this time, with the exception of Resolution Numbers 1423, 1437, 1438, 1536, 1537, 1550, and 1523.

ACTING PRESIDENT ROBACH: All in favor of adopting the Resolution Calendar,

with the exceptions noted, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: All those opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The Resolution Calendar is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe that Senator Martins has a resolution at the desk. May we have it read in its entirety and move for its immediate adoption.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1516, by Senator Martins, congratulating Elmont Memorial High School pitcher Danny Aguilo upon making Long Island baseball history by pitching a no-hitter and striking out 21 batters.

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value

of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play and competition; and

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute to those young people within the State of New York who, by achieving outstanding success in athletic competition, have inspired and brought pride to their school and community; and

"WHEREAS, This Legislative Body is justly proud to congratulate Elmont Memorial High School pitcher Danny Aguilo upon making Long Island baseball history by pitching a no-hitter and striking out 21 batters; and

"WHEREAS, Using an overpowering fastball and effective off-speed pitch, sophomore Danny Aguilo struck out 21 batters as Elmont Memorial defeated Hempstead 21-0 in a seven-inning baseball game on April 20, 2011. With this exceptional performance, he ties the state record for a seven-inning game and did not allow a ball to be hit into play; and

"WHEREAS, Only a walk in the fifth and seventh inning kept Danny Aguilo from true perfection. Also a talented defensive shortstop, he never had struck out more than 13 batters previously in his career; and

"WHEREAS, Danny Aguilo's overall record is outstanding. He was loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Danny Aguilo has clearly made a contribution to the spirit of excellence which is a tradition of his school; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate Elmont Memorial High School pitcher Danny Aguilo upon making Long Island baseball history by pitching a no-hitter and striking out 21 batters; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Danny Aguilo."

ACTING PRESIDENT ROBACH: If we

could just get a little order in the chamber, please.

Senator Martins on the resolution.

SENATOR MARTINS: Thank you, Mr. President.

You know, I am honored to stand here with you today to recognize two young men, two young men who each pitched a no-hitter, back to back. I'll talk about Danny Aguilo first.

Danny's here with us today. He's a sophomore at Elmont Memorial High School. In a seven-inning game, he struck out 21 batters. Let's think about that for a second. It's not only a Long Island record, it's a New York State record, it's a U.S. record. Not a single ball was placed in play. All 21 batters were struck out. Two walks. For a sophomore in high school, an incredible achievement. And I thank him for being here to allow us to recognize him.

Also with us today are Danny's parents, Hector and Iris, who are with us here in the gallery. Thank you so much for joining with us today and allowing us the opportunity

to recognize this truly historic and singular event.

I don't believe that there's an achievement in sport that can rival 21 strike-outs. And the statistical probabilities of getting 21 strike-outs in a seven-inning game are so astronomical that it is that important that we take moment from our deliberations to recognize Danny and to wish you a wonderful, wonderful career ahead of us.

In addition to his athletic achievement, he is also a gifted academic, not only excelling academically in high school but also as a community leader and a leader in the high school. And for that, we salute you and we salute your parents. Thank you.

Coincidentally, and only coincidentally, the very next day after we had a no-hitter and 21 batters were struck out, Elmont High School Spartans, in their pitcher Enrique Sanchez, who's also with us today, pitched another no-hitter.

So we had back-to-back no-hitters. And although we didn't strike out 21 batters on that second night, we struck out 13

batters. But again, an incredible achievement.

And I want to take the opportunity to recognize both of these fine young men, both of these community leaders for that achievement, and recognize Elmont High School once again, its principal, John Capozzi, and the entire Elmont community for this wonderful achievement.

With us also today is our Team Captain Tommy Caraballo, who joins us. He's the spirit of the team. And for my colleagues, I'd ask you to join me also in recognizing, purely by coincidence, it's Tommy's birthday today. Tommy, happy birthday to you.

To the entire Elmont community, congratulations on a spectacular two days of baseball on Long Island. And to Danny's parents, thanks for being here with us today.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: On behalf of Senator Martins and all of us, congratulations, Danny, Tommy, Enrique, on your great accomplishment. And we welcome you

and extend to you all the courtesies of the floor, and to your families as well.

Let's give these fine young men a nice round of applause.

(Applause.)

ACTING PRESIDENT ROBACH: Though this may be a little pro forma, the motion is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The resolution is adopted.

Again, congratulations.

Senator Libous.

SENATOR LIBOUS: Mr. President, there's another privileged resolution at the desk by Senator Martins.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1544, by Senator Martins, congratulating Elmont Memorial High School

pitcher Enrique Sanchez for pitching his first career no-hitter and striking out 11 batters.

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play and competition; and

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute to those young people within the State of New York who, by achieving outstanding success in athletic competition, have inspired and brought pride to their school and community; and

"WHEREAS, This Legislative Body is justly proud to congratulate Elmont Memorial High School pitcher Enrique Sanchez for pitching his first career no-hitter, striking out 11 batters; and

"WHEREAS, On the day after his teammate Danny Aguilo made state history by pitching a no-hitter against Hempstead,

Enrique Sanchez followed suit with an outstanding no-hit pitching performance, defeating Hempstead 14-0; and

"WHEREAS, A junior, Enrique Sanchez pitched the full seven innings by striking out 11 batters in his shutout victory; and

"WHEREAS, Enrique Sanchez's overall record is outstanding. He was loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Enrique Sanchez has clearly made a contribution to the spirit of excellence which is a tradition of his school; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate Elmont Memorial High School pitcher Enrique Sanchez for pitching his first career no-hitter, striking out 11 batters; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to Enrique Sanchez."

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

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Those opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe Senator Rivera has a resolution, Number 1523, at the desk. If we could have its title read and call on Senator Rivera.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1523, by Senator Rivera, congratulating the Monroe College Women's Basketball Team and Coach Seth Goodman upon the occasion of capturing the 2011 NJCAA Division II National Championship.

ACTING PRESIDENT ROBACH: Senator Rivera.

SENATOR RIVERA: Thank you,

Mr. President.

I stand today as this definitely has been the basketball week, so I figure that we must continue on that. And today I stand to congratulate the Lady Mustangs and their coach, Seth Goodman, for their national championship victory in the NJCAA Division II Championship.

And I wanted to point out that like in the rest of the state -- certainly in Senator Nozzolio's district, as he was celebrating the victory of a local team -- there are champions everywhere. There's champions in Senator Nozzolio's district, there are champions in the Bronx, there are semi-champions in Senator Libous's district -- and he didn't hear it, but I'm still going to say it.

This team, they finished with a season record of 29-5. They have -- I want to definitely praise their success as college athletes, their hard work and determination.

And for the record, the players that won: April Williams, Bianca Lewis, Ramona Miles, Rahquana Dickerson, Simone

Victor, Victoria Story, Ja'taeilah Forde, Samantha Gilman, Alisha Steele, Kristal Edwards, Quamisha Lyles, Alexis Paige Sprewell, Jasmine Strong, Jessica Previlon, and Shanee Williams. I read their names into the record since they could not join us this afternoon.

This is, again, the team from Monroe College, which was founded in 1933 in the Bronx. And it is only one of two colleges in any division at any level that have had both their men's and their women's basketball teams in the Final Four.

So I extend my congratulations to the men's team, which much like Senator Libous's -- the team in Senator Libous's district, the men's team, they came in third. The women's team came in first. So I'll just say the women's team is like Senator Nozzolio's team, and the men's team is kind of like the folks that came from your district.

But again, I stand to both honor their hard work and determination and their success, and hopefully we will have many more championships coming to the Bronx from this

great team.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Rivera.

Are there any other Senators wishing to be heard?

If none, the question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed?

(No response.)

ACTING PRESIDENT ROBACH: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe we have a resolution at the desk, 1423, by Senator Hannon. Could we please have the title read and move for its immediate adoption.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1423, by Senator Hannon,

congratulating the Garden City Girls' Winter Track Team upon the occasion of their outstanding 2010-2011 season.

ACTING PRESIDENT ROBACH: On the resolution, all those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe that Resolution 1437, by Senator Peralta, is at the desk. Could we have the title read and I believe call on Senator Peralta.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1437, by Senator Peralta, commemorating the celebration of Cinco de Mayo, May 5, 2011.

ACTING PRESIDENT GRIFFO: Senator Peralta.

SENATOR PERALTA: Thank you, Mr. President.

Cinco de Mayo, in commemoration of the Battle of Puebla, transcends the victory of the greatly outnumbered Mexican army over the French forces. Cinco de Mayo has evolved into an American celebration of Mexican and Hispanic culture and heritage in this country.

Cinco de Mayo is about the spirit and determination of our Mexican and Chicano brethren, about unity and patriotism, about strength and will and perseverance. It is a celebration of liberty and freedom and of the long-standing friendship between the United States and Mexico.

From the arts and culture to politics and the economy, Mexico and Mexican-Americans have made indelible contributions. Mexican heritage and folklore are intertwined in American fabric and Mexican-American experience. In every borough and every county of our great state, Mexican-Americans enrich our communities. In

celebrating Cinco de Mayo, we recognize the myriad contributions and strengthen the innumerable ties that bind us.

Today let's remember that the United States and Mexico are not simply neighbors bound by geography and history, we're two societies that are woven together by millions of families and friends, by common interests and a shared future. And although today is el tercero de Mayo, or the third of May, I want to wish everyone a happy Cinco de Mayo.

So thank you very much, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Peralta.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe that Senator Peralta has another resolution at the desk. May we have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1438, by Senator Peralta, commemorating the 200th Anniversary of the Independence of the Republic of Paraguay.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe that there's a resolution at the desk by Senator Perkins, Number 1536. May we please have the title read and call on Senator Perkins.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1536, by Senator Perkins, mourning the death of Grete Waitz, an outstanding athlete and marathon icon, and recognizing the significance of her life accomplishments.

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: Thank you very much. I just want to briefly make some remarks.

Grete Waitz was an exceptional athlete and marathon icon who distinguished herself through her outstanding achievements in worldwide athletic competitions. Some of you may know that I have occasionally run marathons myself, and she was someone that was very influential with me in terms of the efforts that I've made to do that.

She continually excelled in her sport throughout her career. At the age of 17, she won the national junior titles in Norway for 400 and 800-meter races. She set

the European junior record for the 1500-meters race with a time of 4:17. She won a Bronze Medal at the European Championship in 1974. She set a new record in '75 in the 3000-meters race in Oslo, Norway, with a time of 8:46:6, eight hours, 46 minutes, 6 seconds. She won a Gold Medal in 1977 for the 3000-meters race at the IAAF World Cup in Dusseldorf, Germany. She began running in the New York City marathon in 1978, when she went on to win nine races. I started in 1979.

Grete is widely acknowledged for helping to promote marathon and long-distance running for women. In Norway, she is a sporting legend, having an annual race named in her honor. And the New York Road Runners Club annually sponsors "Grete's Great Gallop," a half-marathon dedicated in her honor.

After being diagnosed with cancer in 2005, Grete established the cancer care foundation called "Active Against Cancer" in 2007.

Grete Waitz leaves behind a legacy which will long endure the passage of time and will remain as a comforting memory to all who

knew her or have been affected by her work. She was one that I believe single-handedly opened up long-distance running, especially marathon running, for women not only in this state but throughout the world. She has recently passed, but she has left behind a great, great legacy, a great tribute not just to the sport but to the role that women can play as athletes and what you can give back to the community.

Thank you very much.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President, I believe that there is another resolution at the desk by Senator

Perkins. And if we could read it in its entirety and then call on Senator Perkins.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1537, by Senator Perkins, commemorating the 112th birthday of Edward Kennedy "Duke" Ellington and his tremendous contributions to music of the 20th century, specifically jazz, blues and gospel.

"WHEREAS, It is the sense of this Legislative Body to recognize and commend those musical geniuses who brought entertainment and cultural enrichment to the citizens of the great Empire State; and

"WHEREAS, Edward Kennedy Ellington was born on April 29, 1899, to James Edward Ellington and Daisy Kennedy Ellington. Daisy and James Edward were both pianists; and

"WHEREAS, At the age of seven, Edward Kennedy Ellington began taking piano lessons. His mother surrounded him with dignified women to reinforce his manners and taught him to live elegantly; and

"WHEREAS, Edward Kennedy

Ellington's childhood friends noticed that 'his casual, offhand manner, easy grace, and his dapper dress gave him the bearing of a young nobleman.' They began calling him 'Duke.' Duke credited his 'chum' Edgar McEntree for the nickname; and

"WHEREAS, Duke Ellington once stated, 'I think he felt that in order for me to be eligible for his constant companionship, I should have a title. So he called me Duke'; and

"WHEREAS, A prominent figure in the history of jazz, Duke Ellington's music stretched into various other genres, including blues, gospel, film scores, popular, and classical. His career spanned more than 50 years and included leading his orchestra, composing an inexhaustible songbook, attaining credits for movies, and composing stage musicals and world tours; and

"WHEREAS, Duke Ellington's work has come to be recognized as a cornerstone of American culture and heritage. He is widely regarded as the most important composer in jazz, and was also a galvanizing bandleader

who inspired many of his musicians to produce their best work, whilst himself being a significant exponent of jazz piano; and

"WHEREAS, When asked what inspired him to write, Duke Ellington had replied, 'My men and my race are the inspiration of my work. I try to catch the character and mood and feeling of my people'; and

"WHEREAS, Thanks to his inventive use of the orchestra, or big band, and thanks to his eloquence and extraordinary charisma, Duke Ellington is generally considered to have elevated the perception of jazz to an art form on a par with other traditional genres of music; and

"WHEREAS, Duke Ellington influenced millions of people both at home and around the world. He gave American music its own sound for the first time. Throughout his 50-year career, he played over 20,000 performances in Europe, Latin America, the Middle East as well as Asia; and

"WHEREAS, Duke Ellington was awarded the Grammy Lifetime Achievement Award in 1966. He was later awarded several other

prizes, the U.S. Presidential Medal of Freedom in 1969, and the Legion of Honor by France in 1973, the highest civilian honors in each country; and

"WHEREAS, Duke Ellington died on May 24, 1974, a month after his 75th birthday, and is buried in the Bronx, New York City. At his funeral, attended by over 12,000 people at the Cathedral of St. John the Divine, located in Harlem, New York, Ella Fitzgerald summed up the occasion by stating, It's a very sad day ... A genius has passed'; and

"WHEREAS, Formerly named 'Frawley Circle,' the traffic circle located at 5th Avenue and 110th Street in Harlem, New York, was renamed 'Duke Ellington Circle' in 1995. In 1997, a 25-foot tall statue by sculptor Robert Graham of Duke Ellington was erected in the middle of the amphitheater composing the circle; and

"WHEREAS, In 1986, a dramatic stamp-image portrayal of the beloved American composer and bandleader Duke Ellington was designed by Texas-born artist James Sharpe, and its April 1986 release not only

represented the first U.S. Postal Service issue of a jazz-themed image, but the introduction of its design also served as only the second U.S. stamp-image to feature an African-American from the field of musical arts; and

"WHEREAS, In 2008, the honor was bestowed on Duke Ellington once again with the issuance of another U.S. postage stamp titled 'Black Cinema USA 42' for his film 'Black and Tan'; and

"WHEREAS, On February 24, 2009, the United States Mint launched a new coin featuring Duke Ellington, making him the first African-American to appear alone on a circulating United States coin; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the 112th birthday of Edward Kennedy 'Duke' Ellington, a legendary musician and one of the most influential African-Americans in the history of this state, this country, and the world; and be it further

"RESOLVED, That a copy of this

resolution, suitably engrossed, be transmitted to the family of Edward Kennedy 'Duke' Ellington."

ACTING PRESIDENT GRIFFO: Senator Perkins.

SENATOR PERKINS: Thank you again, Mr. President. I'll be brief.

I just wanted to, from a very personal family point of view, recognize how pervasive Duke Ellington's presence was in our home and in our community. And when we think of jazz, we cannot but think of Duke Ellington. He is a legendary musician and one of the most influential African-Americans in the history this state, this country and the world.

And I would invite all my colleagues to please join me in signing onto supporting the resolution. Thank you.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, I believe that Senator Larkin has Resolution Number 1550 at the desk. Could we have its title read and ask Senator Larkin for comments.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 1550, by Senator Larkin, expressing appreciation to the U.S. Postal Service upon the occasion of its announcement of the classification of the Purple Heart postage stamp as a Forever Stamp.

ACTING PRESIDENT GRIFFO: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President.

You know, I stand here with a lot of pride today and a heartfelt thanks to a lot of people across America and across this planet.

In January 2000 I asked about 25 people to join me at the Orange County legislature, and our purpose was to discuss a team to put together of how do we go about getting a stamp to honor the American men and women who have been wounded or killed in combat.

In January 2000, ladies and gentlemen, we weren't at war. A lot of people wanted everything to settle down. I had a few people say, Forget it, you know, my father is dead and my brother is sick and this here. But we decided that this was the appropriate time.

The Postal Department told us that we could wait for you-know-who to freeze over, Michael. And what happened? We started a campaign.

The United States Military Academy -- we had the cadets up here last week -- in the first month, January through February, West Point produced 2500 letters in support of it. The Postal Service doesn't take petitions, so consequently you couldn't have it done in a quick way of saying how many

people supported a Purple Heart stamp.

We worked feverishly to get this stamp approved. And before I go any further, I want to especially mention one person who worked harder than most people you'd ever imagine.

In February 2001, after being elected to the United States Senate, Senator Hillary Clinton came to Orange County to a meeting we had. She saw everybody wearing the badge that said "Purple Heart Stamp," "Purple Heart Stamp." She grabbed me and she said, "What is this all about?" I told her, and she said to her aide, "Find us a room." We briefed her on where we were at, what was our goal, how were we going to get it.

I'm gonna tell you, at 3 o'clock that afternoon I had a call from the Postal Department that said "Did you know that Senator Clinton, former First Lady, is now a member of your task force?" I said "Yes, and I'm very proud."

She did a lot of work. She didn't like her name in the paper about it all the time, but she did it.

But this was something that you were thinking about if you've ever been in combat and you saw somebody killed or wounded. I've experienced that. And you experience it writing to the families to tell them about it.

As of the first of April, we have 1.9 million Americans since the start of World War II that are recipients of the Purple Heart for being wounded or killed in combat.

This is [noise from door] -- I'm going to shut that in a minute and make somebody really pissed off.

This is a serious matter. Eleven and a half years it took us to convince the Postal Department to honor men and women of our armed forces who shed blood for this great country of ours. And now, ten days ago, the Postal Department called, and it was like a quarter to 10 at night. And I said to my wife, "That's some joke somebody's playing." She said, "It's Mr. McDonald."

So I picked it up, and he said: "Lark, I've got good news and bad news for you. The good news is the vote today was unanimous for the Purple Heart to be a Forever

Stamp. The bad news is you can't do it until after the fifth of May."

The fifth of May is two days from now. And on an aircraft carrier out in San Diego, they will open up the stamp in honor of Lieutenant Murphy, from Long Island, who just received last year the Congressional Medal of Honor.

So I thank everybody. There's a lot of people, I don't want to miss names, but there was a lot of people here that helped us, both sides of the aisle, because they knew it was the right thing to do. But in a couple of days you'll be able to go downstairs to the post office and get those stamps. There'll also be a special medal for you to wear.

But most important, by the purchase of this stamp or the medal, you will be saying to America and its armed services, dead and alive: Thank you for your commitment to our country.

May God bless America.

ACTING PRESIDENT GRIFFO: Thank you, Senator Larkin, for your efforts and your leadership.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, there's a privileged resolution at the desk by Senator Adams. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Legislative resolution by Senator Adams, honoring the Business Outreach Center Network upon the occasion of its 2011 Celebrating Entrepreneurship Luncheon commemorating 15 years of helping low and moderate income entrepreneurs.

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

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed?

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

Senator Libous.

SENATOR LIBOUS: Mr. President, could we now take up the reading of the noncontroversial calendar.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 8, by Senator Golden, Senate Print 638, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 20, by Senator Fuschillo, Senate Print 526A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect one year after it shall have become law.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 22, by Senator Fuschillo, Senate Print 600A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 27, by Senator Johnson, Senate Print 1208, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 50, by Senator Marcellino, Senate Print 939, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 117, by Senator Young, Senate Print 767, an act to amend the Labor Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 6. Senators Avella, Duane, Montgomery, Peralta, Rivera and Savino recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

129, by Senator Marcellino, Senate Print 998B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Marcellino to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President. I rise to explain my vote on this bill.

This is an important --

ACTING PRESIDENT GRIFFO: Senator Marcellino, one second, please.

Can we have some order in the chamber, please. Thank you.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

The bill that we are passing today making texting while driving a primary offense would seem to be a no-brainer, but in fact it

is not. Too many people are dying, too many people are being maimed or injured on our roads, nationwide and in our state.

Everyone can speak to an occasion where they know of someone who was either injured or hurt by someone who was texting while driving or talking on a cellphone while driving. These are dangerous things and should not be done.

This law will make it easier for law enforcement to enforce existing law and to save lives. That is the motivation of this bill, that is its primary function, to save lives.

The lives we save with this bill are primarily young people under the age of 20 who are engaging in the activity of texting, which has become a phenomenon of recent years and did not exist, frankly, when we did the cellphone ban. So we're bringing our laws up to meet with technology and hopefully we will, in so doing, save as many lives as possible, to bring the word forward.

We've got a same-as sponsor in the Assembly, Harvey Weisenberg. Assemblyman

Weisenberg is carrying it in the Assembly. He tells me he can pass it over there. We are looking forward to the Governor signing this bill into law and the saving of many, many lives of our constituents and our residents in this great State of New York.

Thank you and God bless, and I thank my colleagues for supporting this legislation.

ACTING PRESIDENT GRIFFO: Senator Marcellino to be recorded in the affirmative.

Senator Fuschillo.

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

I want to compliment my colleague Senator Marcellino for this, and for his leadership in banning the use of cellphones in cars. This is just another measure to protect individuals.

Every single day when we drive on our roads, especially my colleagues here in the Senate, when we drive home, whether any particular part of the state, when we see a car in the left lane all of a sudden going down to 50 miles an hour or 45 miles an hour,

we know that they've picked up a cellphone or they're texting.

The federal government has ruled that texting is almost as dangerous as drunk driving. And what Senator Marcellino is doing here today in making the offense of texting a primary offense is critically important to aid law enforcement to properly punish the violators that are putting individuals' lives at risk.

I compliment my colleague on his leadership on this issue for many years, and I'll be voting in the affirmative.

ACTING PRESIDENT GRIFFO: Senator Fuschillo to be recorded in the affirmative.

Senator Libous. Senator Alesi; Senator Libous yields.

SENATOR ALESI: Thank you. Thank you, Senator Libous.

We learn by experience. And the experience that people in my community went through a couple of years ago when five beautiful young women were killed in a fiery crash that they speculate was caused by texting, should teach us, teach us as we look

around the country that over and over and over again we see the dangers of texting while driving and how they affect our families and motorists in New York State.

We have an obligation here as members of the Senate to do what we can to protect the public. And this is one of those times when we look back at the seat belt bill that most people were opposed to in the beginning. We realize now how important that legislation was in saving lives.

The bill that Senator Marcellino has taken such a strong leadership position on also includes a component for educating young people. In fact, it requires the DMV, in the application for license, to provide educational materials on the dangers of texting. It requires DMV to even include a question on the final licensing exam.

So that we're not only looking to deter people by giving law enforcement a primary objective when they pull people over, we're looking not only to deter people from texting by giving them a $150 fine, but we're taking a positive, proactive measure by

educating young people who are now applying for licenses to make it clear to them how dangerous this is.

This will now be an amendment to the Vehicle and Traffic Law, just as the drinking and driving and just as seat belts, all of those things that are meant to help people.

And I know that people will be opposed to this, some of them will. But as I said, we learn by our experience, and our experience tells us that this is vitally necessary to pass this bill.

And I applaud Senator Marcellino for his leadership. I encourage my colleagues to join in voting yes on this bill.

ACTING PRESIDENT GRIFFO: Senator Marcellino to be recorded in the affirmative.

Senator Little to explain her vote -- Senator Little passes.

Senator Libous to explain his vote.

SENATOR LIBOUS: Thank you, Mr. President. I too want to congratulate Senator Marcellino.

You know, when the original bill

was passed on this floor, I voted against it, the talking on the phone in the car. And I kind of regret that I've done that, because I have seen a number of traffic fatalities because of it. I have seen people, as Senator Fuschillo said, even now, traveling to Albany this week, as I'm moving along doing the speed limit, the car in front of me all of a sudden slows down and veers off to the right, comes back in. As I pass the car, the young lady was talking on her cellphone.

That's just talking on your cellphone. We're talking about texting. This is a good bill. People should not be doing other things while they're driving a car. They should be paying attention to the road. They should be paying attention to what they're doing inside of their vehicle. They should not be texting. They should not be holding a phone to their ear -- obviously, it's legal if it's hands-free. They should not be doing those things.

Senator Marcellino, you're on point, as Senator Alesi said. We have lost lives tragically because of those individuals

who feel that it's necessary to send a friend a text message while they're driving in a car.

I support this bill wholeheartedly and would urge my colleagues to think very seriously and vote yes for this.

ACTING PRESIDENT GRIFFO: Senator Libous to be recorded in the affirmative.

Senator Kennedy to explain his vote.

SENATOR KENNEDY: Thank you, Mr. President.

First of all, let me thank Senator Marcellino for his leadership on this extremely important issue.

I want to also thank Senator Fuschillo, the chair of the Transportation Committee. It was actually on my first day here at the Senate, I hadn't yet met Senator Fuschillo, and I approached him about this issue. This issue is extraordinarily important for public safety in Western New York and across New York State.

And Senator Fuschillo said to me, "We're going to pass a bill, and it's going to be Senator Marcellino's bill." Because

there's so many different bills that are out there, we as a Senate, Democrat and Republican, need to come to a conclusion on what's the strongest bill that makes the most sense that is going to help to cure the epidemic that has become texting and driving.

And it has become an epidemic, across New York State and across the United States. The statistics are staggering. Thousands of individuals have lost their lives due to texting and driving and distracted driving across the nation and across this state.

As Senator Alesi has already mentioned in his district, it hit home in his district. It hit home in my district. A young man, 21 years old, his name is A.J. Larson, lost his life tragically texting and driving -- rolling a stop sign, hit by an oncoming vehicle. His mother, Kelly Cline, has made it her life's work since that moment to create an environment on the state level, on the national level, and unfortunately on a local level because in the past the state has failed to act.

And we cannot fail to act once again today. And it is our opportunity today to embrace this legislation, to embrace public safety, to create an environment that's going to be safer -- for individuals of all ages, but especially the youth of this state.

If you look at the statistics, the statistics actually double when you change the age level to which you acquire the information. So the amount of injuries and accidents that are caused by texting while driving doubles when you change the age factor from 18 to 60 years old to 18 to 35 years old.

This is technology that has advanced. Today's legislation is catching up with technology, creating a safer environment for all individuals of all ages that are on the road every single day.

I want to thank Kelly Cline for her advocacy on this important issue. Recently she spearheaded a group called Families Against Texting While Driving. I urge my fellow Senators and I urge the public to join Families Against Texting While Driving to further advance this important issue into the

New York State Assembly, where Assemblymember Weisenberg is carrying this mirroring bill that will allow us eventually to get the signing legislation this session.

Thank you very much.

ACTING PRESIDENT GRIFFO: Senator Kennedy to be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 57. Nays, 3. Senators Montgomery, Parker and Savino recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 214, by Senator LaValle, Senate Print 3576, an act to amend the Real Property Tax Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The

bill is passed.

THE SECRETARY: Calendar Number 216, by Senator Krueger, Senate Print 888, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 253, by Senator Bonacic, Senate Print 3099A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays,

1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 306, by Senator Skelos, Senate Print 1543, an act to amend the Penal Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of November.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Parker recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 337, by Senator Martins, Senate Print 3060, an act to authorize the Town of North Hempstead.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: There is a home-rule message at the desk.

Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 338, by Senator Nozzolio, Senate Print 3488, an act authorizing the Town of Webster.

ACTING PRESIDENT GRIFFO: There is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 345, substituted earlier today by Member of the Assembly Jaffee, Assembly Print Number 668, an act to amend the Environmental

Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 365, by Senator Grisanti, Senate Print 2478, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number

373, by Senator Huntley, Senate Print 3022, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 60.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 381, by Senator Golden, Senate Print 2923, an act to amend the Education Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2012.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 2. Senators Little and Ritchie recorded in

the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 388, by Senator Ranzenhofer, Senate Print 4124, an act to amend the Public Health Law.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR LIBOUS: Mr. President, is there any other business at the desk?

ACTING PRESIDENT GRIFFO: There is none.

SENATOR LIBOUS: Mr. President, I have an announcement.

Tomorrow, on May 4th, we will have our Senate picture taken. We would ask that members be here 10 minutes early, if they could, because it will take 20 minutes for us to get organized and get the picture taken.

So tomorrow will be our annual Senate picture. I would ask everybody to be here 10 minutes early, if they can.

And, Mr. President, there being no further business at the desk, I move that we adjourn until tomorrow, May 4th, at 11:00 a.m., and Senate picture at 10:50.

ACTING PRESIDENT GRIFFO: The announcement is to be noted that there will be a Senate picture and all members should be present at 10:50 a.m.

And on motion, the Senate stands adjourned until Wednesday, May 4th, at 11:00 a.m. Senate adjourned.

(Whereupon, at 4:13 p.m., the Senate adjourned.)