NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 25, 2012

3:12 p.m.

REGULAR SESSION

SENATOR ELIZABETH O'C. LITTLE, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT LITTLE: The Senate will come to order.

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

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

ACTING PRESIDENT LITTLE: Thank you.

We are being joined today for a prayer by the Reverend Peter G. Young, of Mother Teresa Community, who you may have seen on the Rachael Ray Show recently, as well as on Channel 13, where they recognized all of his accomplishments and what he has done for the jobless and people in New York State.

Father Young.

REVEREND YOUNG: Thank you, Senator.

Let us pray.

We're worried tonight because we've been told that a freezing temperature will threaten our plants. But we're reminded that You, O God, provide for our future. We

depend on Your help in all things.

Our Senators gather today as servants for our New York State citizens to provide them with a quality of life that gives them respect and happiness. We ask You, O God, to bless them in their legislative agenda and duties.

We also take great pride in our St. Rose champions, the national soccer champion, and congratulate them and bless them in their good work.

Amen.

ACTING PRESIDENT LITTLE: The reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 24th, the Senate met pursuant to adjournment. The Journal of Monday, April 23rd, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 12, Senator Martins moves to discharge, from the Committee on Local Government, Assembly Bill Number 9012 and substitute it for the identical Senate Bill Number 6222, Third Reading Calendar 94.

And on page 15, Senator Gallivan moves to discharge, from the Committee on Health, Assembly Bill Number 8414A and substitute it for the identical Senate Bill Number 6069A, Third Reading Calendar 238.

ACTING PRESIDENT LITTLE: The substitutions are so 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 -- Madam President, excuse me.

And, Madam President, could members maybe take their seats. There's a lot of commotion in the chamber this afternoon.

ACTING PRESIDENT LITTLE: Thank you. Could we have some order in the chamber and less conversation.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

I have a number of procedural motions today.

On behalf of Senator Bonacic, I wish to call up his bill, Print 6113, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT LITTLE: Thank you. The Secretary will read.

THE SECRETARY: Calendar Number 92, by Senator Bonacic, Senate Print 6113, an act to legalize, validate, and ratify.

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

ACTING PRESIDENT LITTLE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

SENATOR LIBOUS: Madam President, I now offer up the following amendments.

ACTING PRESIDENT LITTLE: The amendments are received.

SENATOR LIBOUS: Thank you.

On behalf of Senator Marcellino, Madam President, on page 17 I offer the following amendments to Calendar Number 277, Senate Print 6481, and ask that said bill please retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: Thank you, Madam President.

On behalf of Senator Fuschillo, on page 18 I offer the following amendments to Calendar Number 310, Senate Print 5012B, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR LIBOUS: Madam President, on page 24, on behalf of Senator Robach, I offer the following amendments to Calendar Number 439, Senate Print 4560, and ask that said bill retain

its place on the Third Reading Calendar.

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

SENATOR LIBOUS: Madam President, on behalf of Senator DeFrancisco, I move that the following bill be discharged from its respective committee and be recommitted with instructions to please strike the enacting clause. That's Senate Print 5732A.

ACTING PRESIDENT LITTLE: So ordered.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

Madam President, we have a special guest with us in the chamber. My colleagues, today we have Shanika Bridges. And Shanika, please stand.

Shanika is here today as one of my constituents. And she is from Newark Valley. And Shanika is also the Miss Teenager of New York.

And she has a pretty remarkable background, Madam President. And we can

understand why she took on 21 other teenagers from across the state and came out number one.

She is a student of Ithaca College and is studying premed. She's a devoted community member. She volunteers by singing at the church and is a group leader at vacation bible school. She serves as an interpreter, was an assistant coach for peewee cheerleading at Newark Valley. She won the Miss Teen Tioga in 2011, and it inspired her to go on to the state level and be successful to be the Miss Teenager of New York.

She has tremendous talent. Not only was her educational speech at the pageant about Type I diabetes, but she has inspired many through her talents.

She also sang a song, "You and I," by Lady Gaga. And those who know me, Shanika, know that I had a Lady Gaga ring tone on my phone for a number of years. So I certainly appreciate that.

She is here today with her mother, Judy, and her father, Jeff. Let's give her a big round of applause.

(Applause.)

ACTING PRESIDENT LITTLE: Thank you for joining us today.

Senator Libous.

SENATOR LIBOUS: Madam President, there's a resolution at the desk by Senator Breslin, Number 3235. It was previously adopted by the house on February 15th. May we have the title read and call on Senator Breslin, who is standing before us.

ACTING PRESIDENT LITTLE: Thank you.

The Secretary will read the title of the resolution.

THE SECRETARY: Legislative Resolution Number 3235, by Senator Breslin, congratulating the 2011 College of St. Rose Women's Soccer Team upon the occasion of capturing of the NCAA Division II National Championship.

ACTING PRESIDENT LITTLE: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

The Capital District is well known for athletic teams, but never before has the

Capital District had a national champion. And this past December, specifically on December 3rd, the College of St. Rose won the Division II Women's National Soccer Championship.

It's extra special because the last three seasons they had lost in the semifinals. So this is a long record of accomplishment. And this year they won 24 games, after a standard that had never been achieved before of 23 in both 2009 and 2010.

In the final game on December 3rd, they were behind 1-0 through the first half. And their goalie, who's here with us today, Jessica Gerski, who will be back, held off the opposition in the final, allowing St. Rose to become national champions.

And in the galleries with us today are Laurie Darling Gutheil, the coach; President Mark Sullivan, the distinguished president of St. Rose; Assistant Coaches Amanda Deck, Kalley Egbert, Jason Gutheil, Jim Lennox, Renae Ransdell, Lauren Steinberg and Mark Van Leuven; Head Trainer Karen Cravens and Assistant Trainers Jessup Pierce and Lisa Geiger. And the team members here with us today are Lauren Minkoff,

Melody Lawrence, Jessica, who I mentioned, the goalkeeper, Marisah Case, Jourdan Thompson, Niki Smith, La'Quilla Upton, and Lana Vecchiarelli.

They are just accomplished. And for the 11th straight year, they were recognized nationally as Academic All-Americans.

So let's give a round of applause to the national champions in Women's Soccer Division II.

(Applause.)

ACTING PRESIDENT LITTLE: Thank you, Senator Breslin.

It's my personal honor to be presiding today, since I'm a graduate of the College of St. Rose, and to welcome President Mark Sullivan, the coaches, and these wonderfully talented women, academically and athletically, on a really impressive and major achievement.

So congratulations, and we wish you well. Thank you for joining us today.

("Thank you" from the gallery.)

(Laughter.)

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President,

there will be an immediate meeting of the Finance Committee in Room 332, followed by a meeting of the Rules Committee.

ACTING PRESIDENT LITTLE: Thank you. There's an immediate meeting of the Finance Committee in Room 332, followed by a meeting of the Rules Committee.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:22 p.m.)

(Whereupon, the Senate reconvened at 4:29 p.m.)

ACTING PRESIDENT LITTLE: Senator Libous.

SENATOR LIBOUS: Madam President, I believe there's a report of the Rules Committee at the desk. If we could have it read at this time.

ACTING PRESIDENT LITTLE: There is a report of the Rules Committee.

The Secretary will read.

THE SECRETARY: Senator Skelos, from the Committee on Rules, reports the following bills direct to third reading:

Senate Print 6182, by Senator

Klein, an act to amend the Education Law; and

Senate Print 6694A, by Senator Flanagan, an act to amend the Public Health Law.

Both bills reported directly to third reading.

ACTING PRESIDENT LITTLE: Senator Libous.

SENATOR LIBOUS: Madam President, I move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The Rules report is accepted.

Senator Libous.

SENATOR LIBOUS: Madam President, before we go on to the noncontroversial reading of the calendar, I believe that you could call, please, at this time on Senator Adams for the purposes of an announcement.

ACTING PRESIDENT LITTLE: Thank you. First the Secretary will read the title of the resolution.

THE SECRETARY: Legislative Resolution Number 3512, by Senator Parker, honoring Ralph McDaniels upon the occasion of his designation for special recognition by the Museum of Contemporary African Diasporan Arts.

ACTING PRESIDENT LITTLE: Senator Adams.

SENATOR ADAMS: Thank you. Thank you, Madam President.

We often recognize pioneers on this floor, and I am just really just honored today to recognize Ralph McDaniels.

You know, many of you won't know him -- but trust me, your children do. Ralph McDaniels is a true visionary. You know, everyone has eyes, but visionaries can see a vision far before many of us. He was the creator of "Video Music Box."

And when you look at what he did over 30 years ago, and the creation of allowing young people a venue where they can play music, they can hear music, it was an urban tone -- and

it really cascaded throughout the entire country.

He was an entrepreneur and visionary who created the show, the first music show focused exclusively to an urban market broadcast on public television. He grew up in Brooklyn and Queens. Ralph aspired to be a DJ. He attended New York Institute of Technology, where he studied communication, TV, film, and he graduated in 1982.

It was at this time that he started noticing an alarming array of talented hip-hop artists continuously being rejected and suppressed by mainstream media. And he wanted to give those overlooked artists a platform where they could be acknowledged by the consumers who craved them.

It was not long before "Video Music Box's" six-day, 60-minute public television viewership began to grow far beyond what any of the cable networks had expected. By 1995, Billboard Magazine recognized the show and awarded "Video Music Box" as the Best Local R&B/Hip-hop Regional Show.

And he did so much more. And, you know, we were actually high school colleagues, we

went to high school together. And I just watched throughout the years, I used to just watch him as he hid, between the music, he put a message. He talked about antiviolence, he talked about domestic violence, he talked about the things that children need to do. So between them popping their fingers, he was planting something in their minds.

And he was just a giant among the urban communities. And now he's known far beyond the urban communities. Many of the local areas that you represent, if you were to go home and ask your son, your daughter, about Ralph McDaniels, they would tell you he's a person that planted the seed of opportunities into so many young people that wanted to participate in music and what we can do with music.

And so we just really want to thank him. And I'm pretty sure those who are back in my district, Senator Parker's district, and those of us who are from Brooklyn, he's one of Brooklyn's own. We thank him for what he has done throughout the years. And we believe that he's going to continue to involve and do some great things around music.

We need men like Ralph McDaniels more than ever now, because a countless number of children who are latchkey kids are going home to nothing of inspiration and they're receiving just junk food for the mind.

Ralph McDaniels has learned how to take that junk food that one would perceive it to be and implant something nourishing by telling young people that they could do some great things with a level of academics, a level of commitment, and a level of desire and compassion. And that's what Ralph McDaniels is known for.

And so I want to thank him and, with Senator Parker, who's not here, honor him with this resolution. And I thank you, Madam President, for allowing me the opportunity to do so.

DJ Ralph McDaniels, thank you.

(Extended applause.)

ACTING PRESIDENT LITTLE: Thank you.

Senator Serrano.

SENATOR SERRANO: I don't have much to add to what Senator Adams said, but I just wanted to mention that -- to thank

Mr. McDaniels as growing up -- I was in high school in the late 1980s, and the first thing I would do when I got home was to turn on "Video Music Box." And it was on a UHF channel, so we had to fiddle with the antenna to get it to come in just right.

But it was really a pioneering show because it was the entire spectrum of music. It was definitely urban music, but he mixed it up. And he put dance music and he put things that we had never heard of before. So those of us, a kid like myself growing up in the Bronx, we were exposed to music from everywhere, artists I had never heard of before.

And it was really enlightening, and it was a lot of fun, and it was good music. And I think a lot of music shows today could learn a lot from the format, the very simple format and the interviews that he did with artists. It was really amazing, and it was a wonderful show.

Congratulations.

ACTING PRESIDENT LITTLE: Thank you, Senator Serrano.

Senator Smith on the resolution.

SENATOR SMITH: Yes, thank you

very much, Madam President.

And let me thank Senator Parker and also Senator Adams for bringing this resolution forward.

As I was growing up, Brother McDaniels, most people thought that I didn't know how to dance. But it was your music that moved me through some moments. As a matter of fact, my wife of 26 years is as a result of your music one day. But that's another subject.

But I will tell you that many of us, as Senator Adams indicated, that would not know of Ralph McDaniels, but many of us do. We grew up to your music. We grew up to your message. We grew up to all that you told so many of us.

And not just in the music by virtue of how great the rhythm was, but the message you had about being successful and who we should be. Which is why many of us on this side of the aisle grew up to your music, and we probably can attribute most of our success to you.

And so it's actually very much of an honor to be able to stand on this floor. And I'm so happy to see you personally. I've heard

so much of you and so much about you and grew up on your music. And as we called it, "the Box," it did so much for many of us.

So to my colleagues that are here, you are in the presence of a giant. You are in the presence of a treasure. So I would only ask that, not to disturb the floor that much, but you should run over and get your picture. It may have value to you in this coming season that we may be in.

(Laughter.)

SENATOR SMITH: So congratulations to you.

And, Senator Adams, thanks so much for bringing this forward.

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Smith.

This resolution was previously adopted by the Senate on March 13th.

And I thank Mr. McDaniels for joining us today and would like to really congratulate him on this very special recognition for his wonderful music. Thank you.

Senator Libous.

SENATOR LIBOUS: Madam President, if we could go back to motions, I have a motion before me on behalf of Senator DeFrancisco.

ACTING PRESIDENT LITTLE: Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

On behalf of Senator DeFrancisco, on page 24 I offer the following amendments to Calendar Number 451, Senate Print 6642, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Libous.

SENATOR LIBOUS: Madam President, at this time could we have the noncontroversial reading of the calendar, please.

ACTING PRESIDENT LITTLE: Thank you. The Secretary will read.

THE SECRETARY: Calendar Number 89, by Senator McDonald, Senate Print 4525C, an

act to amend the Mental Hygiene Law.

ACTING PRESIDENT LITTLE: Read the last section.

THE SECRETARY: Section 12. This act shall take effect immediately.

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 94, substituted earlier by Member of the Assembly Weisenberg, Assembly Print Number 9012, an act to amend the Real Property Tax Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 220, by Senator Seward, Senate Print 6078B, an act to authorize the Town of Frankfort.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

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

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 238, substituted earlier by Member of the Assembly Paulin, Assembly Print 8414A, an act to amend the Public Health Law.

SENATOR LIBOUS: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number 349, by Senator Robach, Senate Print 4407, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 354, by Senator Huntley, Senate Print 3078, an act to amend the Mental Hygiene Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 388, by Senator DeFrancisco, Senate Print 6395B, an act to amend the Education Law.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 391, by Senator Hannon, Senate Print 1922, an act to amend the Family Court Act.

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LITTLE: Announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT LITTLE: The bill is passed.

THE SECRETARY: Calendar Number 454, by Senator Ritchie, Senate Print 5159, an act to amend the Agriculture and Markets Law.

SENATOR LIBOUS: Lay it aside for the day, please.

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

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

SENATOR LIBOUS: Thank you, Madam President.

Is there any further business at the desk?

ACTING PRESIDENT LITTLE: No, there is no further business at the desk.

SENATOR LIBOUS: Madam President, there being no further business, I move that the Senate adjourn until Thursday, April 26th, at 11:00 a.m.

ACTING PRESIDENT LITTLE: Thank you. On motion, the Senate stands adjourned until Thursday, April 26th, at 11:00 a.m.

(Whereupon, at 4:41 p.m., the Senate adjourned.)