

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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7  
8 ALBANY, NEW YORK

9  
10 February 11, 2013

11 3:49 p.m.

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14 REGULAR SESSION

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18 SENATOR JOSEPH A. GRIFFO, Acting President

19 FRANCIS W. PATIENCE, Secretary

1 P R O C E E D I N G S

2 ACTING PRESIDENT GRIFFO: The  
3 Senate will come to order.

4 I ask all present to please rise  
5 and join with me as we recite the Pledge of  
6 Allegiance to our Flag.

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

9 ACTING PRESIDENT GRIFFO: Today's  
10 invocation will be offered by the Reverend Peter  
11 G. Young, of the Mother Teresa Community here in  
12 Albany.

13 Father Young.

14 REVEREND YOUNG: Thank you.

15 Let us pray.

16 O God, we pray for our New York  
17 State citizens, for their dignity of a receiving  
18 a paycheck to overcome homelessness and hunger.

19 We ask that our Senate leadership  
20 give our citizens peace of mind and renewed  
21 faith in a strong economy that provides the  
22 needy job opportunities.

23 Protect us from the violence of  
24 others, and keep us safe from the weapons of  
25 hate. Free the bound people who are caught by

1 the chains of addiction, to encourage them with  
2 their struggle to recover to productive  
3 lifestyles as an example of hope to others.

4 We ask You this through Your  
5 goodness. Amen.

6 ACTING PRESIDENT GRIFFO: Thank  
7 you, Father.

8 The reading of the Journal.

9 THE SECRETARY: In Senate, Friday,  
10 February 8th, the Senate met pursuant to  
11 adjournment. The Journal of Thursday,  
12 February 7th, was read and approved. On motion,  
13 Senate adjourned.

14 ACTING PRESIDENT GRIFFO: Without  
15 objection, the Journal stands approved as read.

16 Presentation of petitions.

17 Messages from the Assembly.

18 Messages from the Governor.

19 Reports of standing committees.

20 Reports of select committees.

21 Communications and reports from  
22 state officers.

23 Motions and resolutions.

24 Senator Libous.

25 SENATOR LIBOUS: Mr. President,

1 before we do the report from the Judiciary  
2 Committee, could members enter the chamber and  
3 take their seats. Could I ask the  
4 Sergeant-at-Arms to make sure that the doors are  
5 secure and that we can begin this process in a  
6 quiet and orderly manner.

7 So, Mr. President, I believe there  
8 is a report from the Judiciary Committee at the  
9 desk.

10 ACTING PRESIDENT GRIFFO: Thank  
11 you, Senator Libous.

12 I would ask the members to please  
13 take their desks, staff to please find suitable  
14 quarters, and the Sergeant-at-Arms to have the  
15 doors closed.

16 Returning to reports of standing  
17 committees, the Secretary will read the report  
18 of the Judiciary Committee.

19 THE SECRETARY: Senator Bonacic,  
20 from the Committee on Judiciary, reports the  
21 following nomination:

22 Jenny Rivera, of the Bronx, as a  
23 judge of the New York State Court of Appeals.

24 ACTING PRESIDENT GRIFFO: Senator  
25 Bonacic.

1                   SENATOR BONACIC:    Thank you,  
2   Mr. President.

3                   Last week the Judiciary Committee  
4   met and considered the nomination of Jenny Rivera  
5   as a judge of the Court of Appeals for a term  
6   commencing January 15, 2013, and expiring January  
7   14, 2027.

8                   Professor Rivera is with us today in  
9   the gallery. Professor Rivera is joined in the  
10  gallery by Audie Serrano, her domestic partner,  
11  as well as her close family, friends and some of  
12  her colleagues from CUNY School of Law.

13                  She is a resident of the Bronx, and  
14  she's in Senator Klein's district.

15                  Pursuant to the provisions of  
16  Section 2 of Article 6 of the Constitution and  
17  the provisions of Section 68 of the  
18  Judiciary Law, the Judiciary Committee has  
19  reported the nomination without recommendation to  
20  the floor.

21                  I now ask that you recognize Senator  
22  Klein.

23                  ACTING PRESIDENT GRIFFO:   Senator  
24  Klein.

25                  SENATOR KLEIN:    Thank you,

1 Mr. President.

2 It is truly an honor for me to rise  
3 today to nominate Jenny Rivera of the Bronx to  
4 fill a term commencing on January 15, 2013, and  
5 expiring on January 14, 2027, as judge of the  
6 Court of Appeals.

7 Several years ago many of us stood  
8 on this floor and we spoke about the nomination  
9 at that time of Judge Jonathan Lippman, who at  
10 that time was being elevated to chief judge of  
11 the Court of Appeals. Sometimes it got  
12 contentious. A lot of times people questioned  
13 whether or not he was the right appointment to be  
14 elevated to be chief judge of the Court of  
15 Appeals.

16 But at that time I rose and spoke on  
17 behalf of Judge Lippman, citing his experience  
18 but most of all citing the fact that he was a  
19 product of New York, grew up on the Lower East  
20 Side. And I said then here was somebody who was  
21 born of immigrant parents, grew up on the  
22 Lower East Side, which is truly a melting pot, as  
23 everyone notion. And at that time he probably  
24 would only dream of becoming a lawyer, let alone  
25 someday being elevated to chief judge of the

1 Court of Appeals.

2 Well, I said then and I say it again  
3 now that I think with Jenny Rivera's nomination  
4 today what we're seeing, first and foremost, is  
5 that that dream -- that dream of someone growing  
6 up in New York, growing up on the Lower East  
7 Side, spending their lives planning to be  
8 elevated to be a judge -- is alive and well in  
9 New York today.

10 Jenny Rivera comes to us in a very  
11 different way. She wasn't trained to be a  
12 Wall Street lawyer. She wasn't trained to join  
13 one of those white-shoe law firms. She was  
14 trained as a public woman, somebody who has  
15 dedicated her life to public service, someone who  
16 each and every day gets up in the morning with a  
17 singular purpose, to make a positive difference  
18 in people's lives.

19 Her background is quite impressive  
20 in the public service: A pro se law clerk in the  
21 Second Circuit Court of Appeals, associate  
22 counsel at the Puerto Rican Legal Defense and  
23 Education Fund, administrative law judge for the  
24 New York State Division of Human Rights,  
25 commissioner on the New York City Commission on

1 Human Rights, law clerk to the U.S. District  
2 Court Judge, now Supreme Court Judge Sonia  
3 Sotomayor, Special Deputy Attorney General for  
4 Civil Rights and the chief of the Civil Rights  
5 Bureau in the State Attorney General's office.

6 She's someone who clearly,  
7 throughout her career, planned to be in this very  
8 place -- but in a different way, as I said,  
9 dedicated to public service.

10 I do also want to say a word about  
11 her most recent position. As many of you may  
12 know, Jenny Rivera is a professor at CUNY Law  
13 School, the City University Law School in  
14 New York, where she is the director of the Center  
15 of Latino and Latina Rights and Equality.

16 That means something to me, because  
17 I graduated from CUNY Law School. And I chose  
18 the law school for probably the same reason that  
19 Jenny Rivera chose to teach there. First of all,  
20 it trains lawyers to be in the public service.  
21 That's their singular goal. That's their  
22 singular purpose. It trains individuals to  
23 pursue a career in public service. You're  
24 encouraged, when you go to CUNY Law School, to  
25 bring your experience in the real world. That's

1     why many of the students go there later in life,  
2     in many cases after a distinguished career in  
3     public service.

4                 It also has the distinction of  
5     graduating more women and minorities than any  
6     law school in the State of New York.  It's open  
7     to all.  It's affordable.

8                 As I said, it takes a very special  
9     person to graduate from that school, and it  
10    certainly takes a very special person to teach  
11    those law students each and every day.  That's  
12    something that's very, very important, and I  
13    think that's going to serve Jenny well when she's  
14    a judge of the Court of Appeals.

15                I think we also have to acknowledge  
16    that Jenny's presence here today is a testament  
17    to our commitment in New York State to ensure  
18    that our courts are a reflection of the people  
19    they serve.  We cannot expect to have a fair  
20    judicial system in all its aspects of expression  
21    without it representing the full scope and  
22    spectrum of our citizens.

23                History has also shown us that while  
24    we may have different areas of experience and  
25    accomplishment, we only advance as a community

1 and a state and a nation by supporting each  
2 other. We may come from different cultures, but  
3 make no mistake: We share a human bond and we  
4 are collectively responsible for one another.  
5 Growing up in the Bronx taught me something very  
6 simple. When you lift up your friend, you lift  
7 yourself up as well.

8                   What makes this country a beacon for  
9 all others around the globe that we honor each  
10 other's chosen path to success. In this country,  
11 and especially here in New York State, success is  
12 found through dedication, perseverance, courage  
13 and commitment to one's chosen field. I think  
14 the old adage or the old proverb proves true:  
15 All roads lead to Rome.

16                   It is in that spirit that I stand  
17 here today and proudly and wholeheartedly support  
18 the nomination of Jenny Rivera to serve on the  
19 New York State Court of Appeals. Jenny Rivera is  
20 a fine legal mind, and I am completely confident  
21 that New Yorkers who come before her bench will  
22 know one certain truth: Justice will be served.

23                   Thank you, Mr. President.

24                   ACTING PRESIDENT GRIFFO: Thank  
25 you, Senator Klein.

1                   Senator Bonacic.

2                   SENATOR BONACIC:    Thank you,  
3                   Mr. President.

4                   I believe the Court of Appeals  
5                   appointment is one of the most important  
6                   positions in New York State government.  The  
7                   decisions of the Court of Appeals affect millions  
8                   of New Yorkers for generations to come.  I  
9                   believe the executive and legislative branches  
10                  have a duty to see that the best, the brightest  
11                  and the most qualified person is appointed to the  
12                  highest court.

13                  Since I have served on the Senate  
14                  Judiciary Committee, I've had the responsibility  
15                  to vote for eight nominees to the Court of  
16                  Appeals.  I voted yes all eight times.  Four were  
17                  women.  One was Hispanic.  One was  
18                  African-American.  And three were like me, but  
19                  only smarter and more handsome.

20                  The nominee has a very limited law  
21                  practice experience.  She has been a law  
22                  professor most of her life.  She served as a law  
23                  clerk one year with Judge Sotomayor back in 1993  
24                  and one and a half years with the Attorney  
25                  General, then Andrew Cuomo, and that was in

1 2007-2008. Those experiences, in my judgment,  
2 were more administrative law than the practice of  
3 law in the trenches with a variety of different  
4 areas.

5 I have every reason to believe that  
6 this nominee is smart, is passionate about the  
7 areas of the law that will interest her, and is a  
8 good professor.

9 I have spent considerable time  
10 studying her writings, and I have to tell you, I  
11 find her writings to be confusing and unclear and  
12 overwhelmingly not reflective of the number of  
13 cases or subject matters which come before a  
14 Court of Appeals judge.

15 I have concerns, if she were to be  
16 confirmed, that she would be prone to judicial  
17 activism rather than apply the statute before  
18 her. I also have concerns that it would be very  
19 difficult for her to be objective in all issues,  
20 given her passion in a limited area of law.

21 Academia is a perfect honorable  
22 profession. I have three academics at the  
23 high school or college level in my immediate  
24 family. But taking someone from academia and  
25 appointing them to the Court of Appeals -- or the

1 Supreme Court, where they could get the training,  
2 I would be voting for this nominee. But you're  
3 asking, this Governor is asking this body to make  
4 a leap from the academic world right to the  
5 highest court in the State of New York.

6           Some have made the argument that  
7 this nominee will bring a different perspective  
8 and think outside the box. If you want someone  
9 on the court with a different perspective, one  
10 could choose an athlete with a law degree, choose  
11 a CEO of a corporation with a law degree, choose  
12 a hedge fund manager with a law degree. They  
13 would bring different perspectives, but not  
14 necessarily the perspective that's needed for a  
15 Court of Appeals judge.

16           I don't want a particular  
17 perspective on the bench. There is a place for  
18 perspective; it is here in the Legislature. And  
19 I submit that this body makes laws. That's the  
20 place for it to be.

21           Maybe Governor Cuomo felt this  
22 nominee was the very best of the seven that he  
23 has given us. I hope he did. I don't  
24 understand, you know, how he thinks. But he's  
25 the Governor, he's above my pay grade, he's

1 smarter than I am, and I'm here.

2 Maybe the belief is that the three  
3 Appellate Division judges what were passed over  
4 were somehow less qualified than the nominee we  
5 have. I have said that in my view, governors  
6 engage in social engineering when it comes to  
7 judicial nominations. Some have disagreed with  
8 me. Maybe it was just a coincidence and not  
9 social engineering that the first Latina judge on  
10 our state's highest court is being replaced by  
11 the second Latina judge on our state's highest  
12 court.

13 If you are to believe that there is  
14 no social engineering in judicial picks and it is  
15 qualifications and only qualifications that  
16 matter, then you must believe that this nominee  
17 is better than three appellate judges, each of  
18 whom have been elected by the people and elevated  
19 by a governor to the Appellate Division.

20 You must believe that the nominee is  
21 more qualified than two active trial attorneys,  
22 partners who have litigated and not just  
23 consulted with major matters such as RICO claims,  
24 fair labor law, health insurance litigation,  
25 contract interpretation, religious discrimination

1 claims, claims over education disputes for  
2 students with special needs, real estate  
3 litigation, local law compliance, allocation of  
4 payment in lieu of taxes agreement, a  
5 Harlan Fiske Stone scholar and a person who was  
6 appointed by two different mayors to serve on  
7 commissions as broadly different as planning and  
8 police corruption, who have served on task forces  
9 for two chief justices. And that, my colleagues,  
10 is just one resume of one candidate that was  
11 passed over.

12 To make this confirmation about  
13 one's ethnic background, though, instead of  
14 qualifications demeans the great Court of  
15 Appeals that our state has always had.

16 Those passed over include Rolando  
17 Acosta, a sitting judge of the Appellate  
18 Division. Judge Acosta is an Hispanic-American  
19 who is deemed to have the highest qualifications  
20 and has written numerous reported decisions.

21 Judge Eugene Fahey, a highly  
22 qualified and highly recommended justice of the  
23 Appellate Division.

24 Kathy Chin, a seasoned litigator who  
25 happens to also be Asian-American and would have

1     been the first Asian-American on the court. It  
2     was her resume I read to you about the RICO  
3     statutes and all the things she has been involved  
4     in.

5                 Sheila Abdus-Salaam, whose name I  
6     undoubtedly just was not kind to, but who is a  
7     justice of the Appellate Division who had been  
8     elected to the State Supreme Court. If  
9     nominated, according to Reuters news service, she  
10    would have been the first African-American woman  
11    on the Court of Appeals.

12                David Schulz, a highly experienced  
13    litigator in New York City. According to the Law  
14    Journal, Mr. Schulz would have been the first  
15    openly gay member of the court.

16                Now, these individuals, based on  
17    their ethnic background or personal  
18    characteristics, might have been historic. But  
19    shame on us if we demean them by stating their  
20    race, gender, or sexual orientation is what  
21    defines them. It is their qualifications that  
22    define them.

23                However -- and I mean this with all  
24    due respect to this nominee -- to put someone who  
25    has such narrow legal experience on the highest

1 court of this state for 14 years -- and possibly  
2 18 years, if the law blesses her with a long and  
3 healthy life -- and to pass over those highly  
4 qualified nominees is not something that I can  
5 support.

6 Thank you, Mr. President.

7 ACTING PRESIDENT GRIFFO: Senator  
8 Espaillat.

9 SENATOR ESPAILLAT: Professor Jenny  
10 Rivera was nominated by Governor Andrew Cuomo to  
11 succeed Carmen Beauchamp Ciparick to serve in the  
12 New York State Court of Appeals. If confirmed  
13 here today, she will be the second Hispanic woman  
14 to sit on such court.

15 The Governor selected Rivera, as was  
16 said by my colleague before me, among seven  
17 candidates found well-qualified by the Commission  
18 on Judicial Nomination, a panel with members  
19 appointed by the Governor, the Legislature, and  
20 the Chief Judge.

21 The commission, chaired by  
22 Chief Judge Judith Kaye, conducted extensive  
23 outreach in seeking applicants and its efforts  
24 resulted in the highest number of applications  
25 ever: 75, the most women applicants ever, and

1     24, the most minority applicants ever.

2             Ms. Rivera earned her undergraduate  
3     degree from Princeton University, her J.D. from  
4     New York University School of Law, and her L.L.M.  
5     from Columbia University School of Law,  
6     concentrating on constitutional theory.

7             Ms. Rivera is a member of the  
8     New York State Bar Association and is admitted to  
9     practice in the Supreme Court of the United  
10    States, the Third Circuit Court of Appeals, and  
11    the District Courts for the Southern and Eastern  
12    Districts of New York.

13            Currently she is a professor of law  
14    at the City University School of Law, CUNY. She  
15    is also the founder and director of the  
16    Law School Center on Latino and Latina Rights and  
17    Equality, which promotes law reform scholarship,  
18    public education, and litigation relating to  
19    civil rights issues facing the Latino community.

20            She has previously served as a  
21    visiting professor at the American University and  
22    Suffolk University Schools of Law.

23            She also currently serves as a  
24    member of the Second Department Judicial  
25    Screening Committee, which helps to screen

1 applicants for judicial positions.

2 Prior to her time at CUNY, Professor  
3 Rivera served as an administrative law judge on  
4 the New York State Division of Human Rights. In  
5 1993, she clerked for then District Court and now  
6 Supreme Court Justice Sonia Sotomayor.

7 Ms. Rivera also previously clerked in the Second  
8 Circuit of Appeals Pro Se Law Clerk's Office.  
9 She also worked as a lawyer for the Legal Aid  
10 Society's Homeless Family Rights Project and as  
11 an associate counsel for the Puerto Rican Legal  
12 Defense and Education Fund.

13 From 2002 to 2007, Ms. Rivera served  
14 as a commissioner on the New York City Commission  
15 on Human Rights. In 2007, she worked as a  
16 Special Deputy Attorney General for Civil Rights  
17 under then New York State Attorney General  
18 Andrew Cuomo.

19 My colleagues, Professor Rivera is  
20 profoundly qualified. She may not be a litigator  
21 in a white-shoe law firm on Wall Street, but she  
22 is highly qualified to feel the needs and to  
23 interpret the law for millions and millions of  
24 New Yorkers that may not be as lucky as to work  
25 in a white-shoe law firm on Wall Street.

1                   Professor Rivera is clearly  
2 committed to public service. Her work assisting  
3 the homeless and safeguarding low-income families  
4 from eviction and discrimination speaks in a very  
5 eloquent way, but it proves also the depth of her  
6 character. She could have easily chosen to earn  
7 more in the private sector, but she chose a  
8 harder path as a scholar and an advocate.

9                   She is a legal scholar, someone that  
10 will bring a fresh and new view of the law while  
11 constructing the law within its parameters to the  
12 highest court of this state.

13                  As a legal scholar, Professor Rivera  
14 illustrated a deep understanding of the law and  
15 her experience while she clerked under now  
16 Supreme Court Justice Sonia Sotomayor. There she  
17 reviewed decisions, motions, and she did most of  
18 the lawyering work that many across the aisle  
19 fail to acknowledge her to have the experience  
20 of.

21                  I am proud to stand here with the  
22 New York State Bar Association, with groups from  
23 the diverse Latino community, including Latino  
24 Justice, the Puerto Rican Bar Association, the  
25 Dominican Bar Association, the National

1 Organization for Women, and many others. Can  
2 they all be wrong? Can they all be wrong that  
3 she is qualified? She is highly qualified, and  
4 I'm here to support her nomination.

5 Professor Rivera's opponents may be  
6 stalling her nomination for political purposes,  
7 but the Court of Appeals presides on those issues  
8 that affect millions of New Yorkers. We need her  
9 intellect, judgment, and experience on the bench  
10 immediately.

11 Thank you, Mr. President.

12 ACTING PRESIDENT GRIFFO: Senator  
13 Rivera. Senator Rivera.

14 SENATOR RIVERA: Rivera?

15 ACTING PRESIDENT GRIFFO: Rivera.

16 (Laughter.)

17 SENATOR RIVERA: Thank you,  
18 Mr. President.

19 Colleagues, I stand here today --  
20 first of all, Professor Rivera, I welcome you to  
21 our chamber, I welcome you and your family and  
22 your colleagues. And I stand today to proudly  
23 support this nomination, to thank the Governor  
24 for his choice for this supremely qualified  
25 person.

1                   And I would say to my colleagues  
2     that I have a very deep, deep disagreement with  
3     you. When you say that you want, that we want  
4     the best, the brightest and most qualified:  
5     There she is.

6                   I would say that as a Bronx  
7     resident, to me, that's what I call frosting on  
8     the cake. The fact that she is as supremely  
9     qualified as she is and, on top of that, that she  
10    is in our wonderful borough, I'm very, very happy  
11    about that. And I think that she will be a  
12    valuable addition to the Court of Appeals of the  
13    State of New York.

14                  I do not believe, as my colleague  
15    stated, that the Governor is practicing social  
16    engineering. What I think the Governor is doing  
17    is he wants to make sure that we have a court  
18    that looks like the State of New York.

19                  And actually I have a bit of trivia  
20    for my colleagues. What do Chief Judge Judith  
21    Kaye and Elena Kagan, who is now in the  
22    Supreme Court, have in common with Jenny Rivera?  
23    And if you can't guess, I'll give you a little  
24    bit more of a clue. What do these three women  
25    have in common with Robert Smith, who is also in

1 the Court of Appeals? How about William  
2 Rehnquist? Earl Warren? Louis Brandeis?  
3 Felix Frankfurter?

4 Any and all of these folks who have  
5 served with great distinction either in the  
6 Court of Appeals or in the Supreme Court of the  
7 United States, none of these folks had judicial  
8 experience before they were nominated to either  
9 of these courts.

10 So what we have before us is someone  
11 that I can only hope will give us the same type  
12 of decisions, decisions that will certainly  
13 impact millions of New Yorkers for years to  
14 come. Somebody who will bring her wide  
15 experience, her broad experience, her diverse  
16 experience into better understanding of the law  
17 for the State of New York.

18 I proudly stand here in support of  
19 this nomination and ask my colleagues to do the  
20 same.

21 Thank you, Mr. President.

22 ACTING PRESIDENT GRIFFO: Senator  
23 Breslin.

24 SENATOR BRESLIN: Thank you,  
25 Mr. President.

1 I stand here as a member of the  
2 Judiciary Committee, a member for over 16 years.  
3 And I firmly believe that this candidate received  
4 more scrutiny, more review, than any candidate I  
5 have seen in those 16 years. And it is my  
6 conclusion that she passed every test in a  
7 tremendous way.

8 You know, we've heard repeated and  
9 repeated that coming from Puerto Rico, Hispanic  
10 parents, going to I believe St. Michael's  
11 School -- we never, no other candidates got back  
12 into the grade and high schools -- on to  
13 Princeton, to NYU, to Columbia for a master's,  
14 nine years of practice, years as a professor at  
15 CUNY, two other stints as a visiting professor  
16 elsewhere, a commissioner of human rights for the  
17 City of New York appointed by Mayor Bloomberg,  
18 working for the Attorney General in the Civil  
19 Rights Division, supervising lawyers, an  
20 administrative law judge, a clerk to Sonia  
21 Sotomayor, and on and on and on.

22 And then, the culmination of that,  
23 over five hours of testimony before our Judiciary  
24 Committee. That's when I really saw a  
25 performance, a performance of professionalism, a

1 performance of, as I referred to it then at the  
2 Judiciary Committee, the patience of Job, to  
3 endure repetitive questions over and over and  
4 over, where I came to the conclusion that I have  
5 not seen someone with the kind of full and total  
6 background of human life experiences, of  
7 education, professional experiences, who is more  
8 qualified for the Court of Appeals.

9           And I believe that we will look back  
10 at this day as one of the most wonderful days,  
11 because I think that Jenny Rivera will prove to  
12 be one of the greatest of our Court of Appeals  
13 judges. And I am very proud to say that this  
14 may be the best decision I've made in my 16 years  
15 on the Judiciary Committee by fully supporting  
16 the candidacy of Jenny Rivera for the Court of  
17 Appeals.

18           Thank you, Mr. President.

19           ACTING PRESIDENT GRIFFO: Thank  
20 you, Senator Breslin.

21           Senator Perkins.

22           SENATOR PERKINS: Thank you very  
23 much for this opportunity.

24           I first want to take a moment to  
25 acknowledge someone that is near and dear to me

1 who joins us today, and we served together in the  
2 City Council, Councilmember Bob Jackson. I just  
3 want to recognize that he's here with us. In  
4 fact, he sits with Jenny Rivera, and wanted to  
5 make sure that he was here during this historic  
6 moment in her support.

7 He also happens to be a part of a  
8 group of crazy guys that run around doing  
9 marathons in New York City.

10 But you know, there's this notion of  
11 the old boys' network that keeps coming up in  
12 these discussions. Which I'm concerned about  
13 because, you know, it comes up -- I mean, social  
14 engineering, which for me is another term for the  
15 old boys' network. You know, and nobody seems to  
16 have had a concern about that.

17 And I recently received a letter  
18 from a friend of mine from the old boys' network,  
19 someone who I attended school with at  
20 Brown University, sort of the breeding ground of  
21 that network. And he sent me a letter in support  
22 of Ms. Rivera.

23 I'm not going to read it all, but I  
24 just wanted to sort of bring forward the summary,  
25 the concluding sentence. And he says: "Jenny

1 Rivera would bring to the Court of Appeals her  
2 keen intellect, insightful legal scholarship, and  
3 a commitment to equal justice for all  
4 New Yorkers. We believe that her overall  
5 experience will serve the State of New York well  
6 as associate judge."

7 This individual happens to be the  
8 president of the New York State Bar Association,  
9 Seymour W. James, Jr.

10 So it would seem to me that if  
11 someone of such outstanding legal experience and  
12 background -- similar to that which many of you  
13 who object to her have -- could find her so  
14 well-qualified, then I can't disagree. And I  
15 can't imagine why anybody else would disagree,  
16 except for the fact that perhaps she's not from  
17 the old boys' network. And that's the type of  
18 social engineering that we can't accept.

19 So I just wanted to make sure that I  
20 stood in support of her and would hope that my  
21 colleagues do the same.

22 ACTING PRESIDENT GRIFFO: Senator  
23 Smith.

24 SENATOR SMITH: Thank you very  
25 much, Mr. President.

1                   And thank you, colleagues, thank  
2                   you, Senator Klein, for the nomination of  
3                   Jenny Rivera. And I thank all my colleagues who  
4                   have spoken before me, and so eloquently, in  
5                   terms of her background.

6                   In particular, Senator Gustavo  
7                   Rivera went through a litany of justices that  
8                   have been on the bench and served with  
9                   distinction that had no prior bench experience.  
10                  And while I believe you heard him, I just want to  
11                  underscore those names again because of the level  
12                  of prominence they've reached in the legal  
13                  profession.

14                  We all know about Justice Earl  
15                  Warren, we know what bench he sat on all. We  
16                  know about William Rehnquist -- probably one of  
17                  the major forefathers and authors of legal  
18                  precedence that many of you have followed and  
19                  used cases and decisions to determine your legal  
20                  argument -- as well as the person who served as  
21                  chief judge, Judith Kaye, who was very near and  
22                  dear to so many of us. None of which served on  
23                  the bench prior to being on that high court.

24                  But you know, more importantly, I  
25                  had a quick moment this weekend -- and I'm just

1 bringing in my little life experience -- and you  
2 know we had bad weather. I was down shoveling  
3 snow and did my neighbors' and everything else.  
4 So after I was all said and done, I didn't have  
5 nothing to do, I didn't go out to do any  
6 political work because there was a lot of snow  
7 and stuff, nobody was meeting. So I watched a  
8 movie.

9                   And after I saw this movie -- I'm  
10 not going to get into what it was -- but what  
11 happened during the movie is an individual went  
12 through a tremendous amount of ordeal in pursuit  
13 of what they thought was their career and what  
14 should happen toward the pinnacle of it. And as  
15 they went through all these trials and  
16 tribulations, I thought about the hearings, I  
17 thought about some other stuff. And there was  
18 one profound statement that was made, I guess  
19 somewhat in the middle of the movie and at the  
20 end, and it was a simple three words. It said  
21 "It is time."

22                   So I say that to my colleagues  
23 today: It is time. Jenny Rivera, clearly --  
24 someone who graduated from Princeton, NYU,  
25 Columbia -- it is time. Somebody who clerked for

1 Sonia Sotomayor, somebody who's a professor at  
2 CUNY Law School, served as Deputy Attorney  
3 General for Civil Rights, my colleagues, it is  
4 time. Someone who also has the distinction of  
5 understanding the relationship and the nexus  
6 between the legal profession and common law in  
7 everyday existence. My colleagues, it is time.

8               So I'm honored to stand here today,  
9 Judge Rivera, if I can be so presumptuous, and  
10 thank you for your willingness to serve on this  
11 bench, which is not an easy thing to do. The  
12 decisions that you will face are very critical  
13 and they will dictate the future of this state.

14               But I say to the Governor, I say to  
15 Senator Klein, to Senator Bonacic, you're doing  
16 the right thing today, because it is time.

17               Thank you, Mr. President.

18               ACTING PRESIDENT GRIFFO:   Thank  
19 you, Senator Smith.

20               Senator Krueger.

21               SENATOR KRUEGER:   Thank you,  
22 Mr. President.

23               So my colleagues have gone over in  
24 broad detail the incredible qualifications of  
25 Professor Rivera. And I actually as a politician

1 usually explain that I don't get involved with  
2 endorsing people for judge. What do I know about  
3 being a judge? I'm not even a lawyer.

4 But I have gotten letters and calls  
5 from almost everyone you can imagine who  
6 represents different fields of law -- private law  
7 firms, corporation counsel, deputy mayors,  
8 organizations who in fact specialize in  
9 evaluating judges. So I have no questions about  
10 Professor Rivera's qualifications.

11 So I just wanted to stand up and say  
12 I know Professor Rivera from when she was  
13 starting out with the Legal Aid Society and then  
14 the Puerto Rican Legal Defense and Education Fund  
15 back in the '80s, when we were both much, much  
16 younger.

17 And so on top of her being an  
18 amazingly qualified candidate to be sent to us  
19 for confirmation today, she is also an incredibly  
20 solid human being who cares about the people of  
21 this state, who will never do anything but make  
22 us unbelievably proud as a jurist on the highest  
23 court of New York State, because her entire  
24 career -- before I think she ever imagined being  
25 a law professor or moving to the bench -- her

1     entire career has been one committed to the  
2     people of New York State, making sure they have  
3     the opportunity to be protected under our laws  
4     and that our laws are upheld at the highest and  
5     most complicated standard.

6                 So a little bit in advance, I want  
7     to thank Professor Rivera for what I know will be  
8     an amazing career on our highest court.

9                 Thank you very much. I vote yes,  
10    Mr. President.

11                ACTING PRESIDENT GRIFFO:     Senator  
12    Diaz.

13                SENATOR DIAZ:     Thank you,  
14    Mr. President.

15                I'm going to follow Bill Perkins'  
16    lead by recognizing members of the Legislature  
17    that are here. And over there we see Assemblyman  
18    José Rivera and Assemblywoman Carmen Arroyo. So  
19    they are here, I could imagine, or I imagine,  
20    supporting the nomination of Jenny Rivera.

21                I remember when George Bush was the  
22    president, and I remember that he nominated two  
23    judges, Hispanics, Alberto Gonzales and Miguel  
24    Estrada, a Republican president nominating  
25    Hispanic judges.

1                   And I remember how the  
2       Democratic Party and how the members of the  
3       Judiciary Committee in the Senate jumped all over  
4       those candidates. I remember how badly  
5       criticized were those candidates by the  
6       Democratic Senate because they were nominated by  
7       a Republican president.

8                   But I also remember -- no, I don't,  
9       no. No, I don't remember, I don't remember the  
10      Hispanic community, the Hispanic media and the  
11      Hispanic elected officials rising up to defend  
12      those well-qualified judges. But because they  
13      were nominated by a Republican president, and  
14      maybe because they were Republican, the Hispanic  
15      pride, the Hispanic heritage was neglected by  
16      everyone. Nobody cares.

17                  I am a Puerto Rican, born and raised  
18      in Bayamón, in Barrio La Cuchilla, Bayamón,  
19      Puerto Rico. And I live in Bronx County. And if  
20      you want to appoint, if you want to nominate, if  
21      you want to get a good judge of Hispanic descent,  
22      come to the Bronx. We have plenty. Well  
23      qualified, with a lot of experience, with all the  
24      qualifications that will make us in the Hispanic  
25      community proud.

1                   See, when President Obama nominated  
2 Judge Sotomayor, that was a hit. Everybody  
3 jumped, and that was really because he got the  
4 best in the community.

5                   In the Bronx we have Luis Gonzalez,  
6 with a lot of experience. Puerto Rican, like  
7 me. In New York City we have Rolando Acosta.  
8 Dominican, like you {to Senator Espaillat}. We  
9 have, in New York City, Judge Faviola Soto, the  
10 first Dominican woman to be elected to the  
11 Supreme Court. In the Bronx we have Sallie  
12 Manzanet. We have Nelson Roman, Lucindo Suarez,  
13 Ruben Franco, George Villegas. We have plenty in  
14 the Bronx.

15                  So when anyone stands up and  
16 questions and ask questions why, members of my  
17 community jump and say that's racism, that's  
18 discrimination.

19                  That was a good move by Governor  
20 Cuomo. You know, Governor Cuomo is the one  
21 winning here. It's good for his presidential  
22 ambitions, because he put the Hispanic media and  
23 the Hispanic community and leaders to fight  
24 against non-Hispanic and against the Republicans,  
25 saying "Oh, the Republicans."

1                   This is not about Republicans. This  
2 is not about Dominicans. This is about the best  
3 in our community. This is what is best what is  
4 something -- see, Judge Rivera will be appointed  
5 today. She will be appointed, there's no  
6 question about it. The only question is that all  
7 the media and everybody is talking about if she  
8 is or is she not qualified, if she's a judge, if  
9 she worked only one year for Judge Sotomayor, if  
10 she has all the credentials. And she will be  
11 appointed.

12                   But that's uncalled for. Because we  
13 have judges in our community that could have been  
14 appointed, and none of it has happened. None of  
15 it has gone through.

16                   I was a member of the  
17 Judiciary Committee for many years until this  
18 year that -- Sampson appointed me to the  
19 Judiciary Committee, and I was a member of the  
20 Judiciary Committee until this year that my new  
21 boss removed me. It was you, Mike Gianaris.  
22 Somebody removed me from that committee. That's  
23 okay. I've been kicked out of better places in  
24 my life.

25                   So, ladies and gentlemen, whatever

1 happens here today -- and I'm pretty sure that  
2 Judge Jenny Rivera will be nominated -- we all  
3 have to know and the people have to know that  
4 there is nothing wrong, nothing wrong by  
5 questioning, by saying what is your credentials,  
6 you should be a better candidate or should have  
7 done other or whatever.

8                   So I am not taking this as an act of  
9 racism or discrimination or Republican -- because  
10 I -- I was hurt and angry when George Bush  
11 appointed Alberto Gonzales and Miguel Estrada and  
12 none of the Hispanic community, none of the  
13 Hispanic newspapers, none of the Hispanic media  
14 came to defend those judges.

15                   So today the Governor has achieved  
16 something very important. All the Hispanic  
17 media, even Channel 47 {in Spanish} is here. And  
18 tonight the Governor is going to say, Oh, a  
19 triumph.

20                   If the Governor wanted -- if the  
21 Governor really, really, really wanted a  
22 Hispanic, Luis Gonzalez, Rolando Acosta, Faviola  
23 Soto, Sallie Manzanet, Nelson Roman, Lucindo  
24 Suarez, Ruben Franco, George Villegas would have  
25 gone through, smooth, through the committee. I'm

1 pretty sure that Senator Bonacic and the members  
2 of the committee would not have questioned them  
3 as they did to Jenny Rivera.

4 So, ladies and gentlemen, stop the  
5 nonsense and stop this pitting communities  
6 against other communities. And there's nothing  
7 wrong about questioning people. Questioning  
8 credentials or questioning experience.

9 To Judge Jenny Rivera, I wish her  
10 well. She will be appointed today. And to those  
11 of you that has come all the way from the city  
12 and from all over to support her, where were you  
13 when George Bush nominated Alberto Gonzales and  
14 Miguel Estrada?

15 Thank you, Mr. President.

16 ACTING PRESIDENT GRIFFO: Senator  
17 Adams.

18 SENATOR ADAMS: Thank you,  
19 Mr. President.

20 You know, I'm going to thank  
21 Senator Perkins and Senator Rivera for their  
22 comments, because it made me think of two points  
23 in my law enforcement career.

24 The first was when I was a rookie  
25 and I walked inside the precinct and I saw the

1 officers who were there, they were walking, and  
2 they would kick the side of the soda machine and  
3 get a free soda. And I saw this for about a  
4 week. And then one day I came in, I kicked the  
5 machine, I got a free soda. The next day a  
6 repairman was there fixing that machine.

7                   And then I think about Police  
8 Commissioner Bernie Kerik. Mayor Giuliani  
9 appointed him. He had a high school equivalency  
10 diploma, jumped over all of these experienced men  
11 and women because Giuliani felt he was the right  
12 person.

13                   This term "experience and  
14 qualification" is something that's defined by  
15 others and not the person who's making the  
16 decision who they want to sit on the court.

17                   The Governor decided. He made the  
18 determination based on what he believed is needed  
19 to make the court the type of court that we need  
20 to move into the new century.

21                   Those old schools of thought that  
22 are looking down on people because they say they  
23 are community organizers that rise to become the  
24 president, that look down on people who have  
25 everyday experience in their homes -- I think

1 street credibility counts for something.

2 That may not fit your criteria in  
3 experience. But I think a person who walks a  
4 beat, a person who grew up in public housing, a  
5 person who had to go through the grueling task of  
6 rising to the point where they are -- if you look  
7 under Judge Rivera's fingernails, you will see  
8 the dirt and grime of climbing up the mountain of  
9 opportunity one hand at a time. Many of you,  
10 your family members have done the same thing.

11 This is the right choice. I support  
12 that choice. And I'm sure members here on both  
13 sides of the aisle know this is the right  
14 choice. She will do this state proud.

15 Congratulations to you, Judge.

16 ACTING PRESIDENT GRIFFO: Senator  
17 Squadron.

18 SENATOR SQUADRON: Thank you very  
19 much, Mr. President.

20 Look, this has been talked about  
21 extensively today and over the extensive  
22 hearings. Professor Rivera's qualifications are  
23 in fact stellar. Her professional experience,  
24 from serving with great distinction as the head  
25 of the AG's Civil Rights Bureau to years focusing

1 on civil rights law and civil litigation, is  
2 critically important.

3 This idea that suddenly the number  
4 of trials that you've gone through is the  
5 qualification is in conflict with the way that we  
6 always choose and measure judges.

7 But there's one other point that I  
8 want to make that hasn't been made today.  
9 Professor Rivera grew up in my district, in a  
10 place called the Baruch Houses, which is a public  
11 housing development in the heart of the  
12 Lower East Side. And let me tell you, it's a  
13 tough place. It was a tough place when  
14 Professor Rivera was growing up, it's still a  
15 tough place today.

16 People don't come out of  
17 Baruch Houses and have the career that  
18 Professor Rivera has had just by skating by.  
19 That is not a thin qualification. It is an  
20 extraordinary personal story, and a meaningful  
21 one.

22 The fact that Professor Rivera came  
23 from the heart of the Lower East Side, came from  
24 a tough public housing development and has had  
25 the career she has and has now been nominated and

1 put forward by the Governor to serve on the  
2 state's highest court, is in and of itself, in  
3 addition to the other qualifications, an  
4 important one. And it is an inspirational one.

5 And so I hope that today, while  
6 we're all up here making our speeches, there are  
7 kids on the Lower East Side, there are kids in  
8 Baruch Houses and the other public housing  
9 developments, kids whose parents have just come  
10 here from lands far away, who are watching.  
11 Because it's not easy, and you have to have an  
12 extraordinary work ethic and some pretty  
13 extraordinary talent, as Professor Rivera shows.  
14 But it is possible to rise from that place, from  
15 that tough, tough life on the Lower East Side to  
16 the state's highest court.

17 It's a wonderful moment, and one  
18 that I hope many kids across the state and  
19 certainly on the Lower East Side will take to  
20 heart.

21 Thank you, Professor Rivera, for  
22 that experience. Thank you for serving. Thank  
23 you for agreeing to serve. And I look forward to  
24 voting aye for your nomination.

25 Thank you, Mr. President.

1                   ACTING PRESIDENT GRIFFO:    Thank  
2   you, Senator Squadron.

3                   Senator Serrano.

4                   SENATOR SERRANO:    Thank you very  
5   much, Mr. President.

6                   I rise in support of the nominee.  
7   And I won't repeat so much of what's already been  
8   said.

9                   But in looking over the  
10   qualifications of the candidate, what strikes me  
11   is the amount of experience, grassroots legal  
12   experience, that the nominee has.  And to me,  
13   that is something that sets her apart, something  
14   that helps her to understand the very people and  
15   situations that she will eventually be sitting in  
16   judgment of.

17                  Because it won't be numbers, books  
18   or accounts that she will be sitting in judgment  
19   of, it will be humanity.  It will be real  
20   situations.  And her experience, her resume  
21   speaks to the level of humanity that she has and  
22   that she's experienced over the years.

23                  So I stand in support because I  
24   believe she'll be a tremendous judge and she will  
25   excel on the Court of Appeals.

1 Thank you.

2 ACTING PRESIDENT GRIFFO: Thank you,  
3 Senator Serrano.

4 Senator Sampson.

5 SENATOR SAMPSON: Thank you very  
6 much, Mr. President.

7 I rise in support of this  
8 nomination. And when I see Professor Rivera, I  
9 see a woman who has a wealth of life experience,  
10 someone who may have been born in poverty but did  
11 not stay in poverty. Someone who educated  
12 themselves to the point where she has been  
13 nominated to the Court of Appeals.

14 And, you know, I respect my  
15 colleague Senator Bonacic, the chair of the  
16 Judiciary Committee, because he really takes  
17 these nominations, these appointments very  
18 seriously. And we're looking to make sure that  
19 we get the best and the brightest on the bench.

20 And, you know, when we talk about  
21 social engineering, to me it's not social  
22 engineering, it's called diversity. It's about  
23 making sure that we have a body that is  
24 reflective of all people in the State of  
25 New York.

1                   We can talk about experience. You  
2 know, the bottom line is this. When you're a  
3 justice, associate judge on the Court of Appeals,  
4 you have three things that you look at: Merit,  
5 the rule of law, and precedent. That's what you  
6 base your decisions upon. You can be a professor  
7 in academia, you can be a litigator, but most of  
8 all, if you do not have the ability and  
9 understand that irrespective of your background,  
10 irrespective of your ideology, we're taught that  
11 you guide on three principles when making a  
12 decision. And these decisions have to be based  
13 upon three principles.

14                   And I can understand my colleague's  
15 concern about the question of judicial activism.  
16 But when you're a professor, you always want to  
17 provoke thought in all of your students. You  
18 want them to -- and we all have that opportunity,  
19 especially as litigators. Especially, we look  
20 for something that's not there so we can  
21 represent our clients to the fullest extent.

22                   So, Professor Rivera, I want to  
23 commend you on doing something that a lot of  
24 people have had the opportunity to, but you have  
25 excelled about that, and that is making sure you

1 never forget where you come from.

2           So I want to thank you, because you  
3 could have went to a white-shoe law firm, you  
4 could have been a partner in one of those big law  
5 firms. But you chose to be a professor who  
6 understands it is important to shape the minds of  
7 the young people that we are looking forward to  
8 represent us throughout this state and throughout  
9 this country.

10           So I just want to congratulate the  
11 nominee on hopefully her appointment to the Court  
12 of Appeals.

13           Thank you very much, Mr. President.

14           ACTING PRESIDENT GRIFFO: Senator  
15 DeFrancisco.

16           SENATOR DeFRANCISCO: Yes.  
17 Sometimes we lose sight, I believe, of what the  
18 purpose of our being in a particular position and  
19 what our responsibility is. And sometimes in  
20 this job emotions are high on both sides of an  
21 issue. But each one of us, I believe, is trying  
22 to make a decision in good faith based upon what  
23 the issue may be.

24           In this case, the issue is whether  
25 or not this individual should be confirmed as a

1 Court of Appeals appointee. Nothing more,  
2 nothing less. And the responsibility of the  
3 State Senate and each Senator, based on his or  
4 her particular feelings, is to make a  
5 determination on that point.

6 Now, there's been much said about a  
7 woman who had a dream and came from the public  
8 housing and had all of this background, in the  
9 trenches on the issues that she dealt with. But  
10 I kind of think -- I may be wrong, because I  
11 hadn't talked to any of these people -- but the  
12 other potential nominees, Sheila Abdus-Salaam, I  
13 think she probably had a dream at one time in her  
14 life too, to become a member of the highest court  
15 of this state.

16 Or how about Rolando Acosta? I  
17 think he probably had a dream sometime -- I don't  
18 know where he came from or what his upbringing  
19 was -- to become a member of the highest court of  
20 the State of New York.

21 And I can go through the entire  
22 list, or the list of individuals that Senator  
23 Diaz mentioned. I'm sure they had a dream. And  
24 I'm sure their circumstances growing up were  
25 probably difficult as well.

1                   Now, that's all very interesting,  
2                   and it's all something that people can consider.  
3                   But it seems to me that this appointment to the  
4                   highest court of the state, you've got to pick  
5                   the best possible and confirm the best possible  
6                   candidates for that particular position. No  
7                   matter what their aspirations during their  
8                   lifetime may be, but what they have accomplished  
9                   during their lifetime.

10                  And with a Court of Appeals judge,  
11                  it's not just deciding issues on what you've  
12                  studied in one narrow area of the law. The  
13                  broader the experience or the judicial experience  
14                  that you have bodes well for you in getting that  
15                  nomination, I thought. I thought.

16                  Now, I think what people who happen  
17                  to be -- including myself -- who happen to be  
18                  voting no are voting on is that this is not the  
19                  best candidate, period. There's all kinds of  
20                  wonderful attributes that this candidate has --  
21                  but in comparison to the other potential nominees  
22                  that are out there, then that is a decision that  
23                  everybody has to make.

24                  I think if you don't have judicial  
25                  experience, you at least have to have a broad

1 range of experience in the courtroom because  
2 you're going to make decisions on a broad range  
3 of things. But that's my particular point of  
4 view.

5 I for one don't believe that there  
6 should be an Italian-American seat, an Hispanic  
7 seat. And then according to her own writings, is  
8 that Hispanic seat Puerto Rican, is it Mexican,  
9 is it whatever subclassifications, according to  
10 her own writing? There just isn't enough seats  
11 on the Court of Appeals to do that. But that's  
12 the way I believe. That's the way I believe.

13 However, if the decision is made  
14 that this is going to be an Hispanic that is  
15 going to be appointed by the Governor of the  
16 State of New York -- and that's obvious, no one  
17 can deny that -- then shouldn't it be the best  
18 possible candidate that he could appoint? And I  
19 don't think this candidate is the is the best.

20 Now, I hope the Governor -- I'm  
21 sure -- I don't know what he'll do, but he may  
22 take affront at my remarks. I have stood here  
23 for every nominee, whether it's for a judge,  
24 whether it's from the Finance Committee,  
25 consistently praising the Governor on his

1 decisions because he's made some phenomenal  
2 appointments to key positions in the State of  
3 New York. The Court of Appeals position is  
4 something that we should hang very high and get  
5 the best possible qualifications.

6           Lastly, as a lawyer who did a lot of  
7 trial work, I struggled for years trying to  
8 interpret decisions of the court. I struggled  
9 for years. I know Appellate Division judges and  
10 trial-level judges struggle to try to interpret  
11 the writings of the Court of Appeals: What did  
12 they mean by that? What's the legal precedent  
13 mean?

14           And with all due respect, I've read  
15 her writings, because I haven't -- there's no  
16 judicial decisions, and I don't think they're  
17 clear. I don't think they're precise. I don't  
18 think they're going to be able to give the  
19 guidance that lower courts and lawyers will need.

20           So for the simple reason in this  
21 particular case, my job is to determine whether  
22 or not I believe this person should be elevated  
23 to the Court of Appeals. I do not believe so.  
24 There are many other Hispanics, many other -- and  
25 other ethnic groups that certainly are more

1 qualified.

2           So for that reason and those reasons  
3 that I just mentioned, and much of what Senator  
4 John Bonacic had said earlier, I'm going to vote  
5 no.

6           ACTING PRESIDENT GRIFFO:    The  
7 question is on the nomination of Jenny Rivera to  
8 the New York State Court of Appeals. All present  
9 signify by saying aye if you are in favor.

10                   (Response of "Aye.")

11           ACTING PRESIDENT GRIFFO:    Nay if  
12 opposed.

13                   (Response of "Nay.")

14           ACTING PRESIDENT GRIFFO:    Senator  
15 Montgomery, why do you rise?

16           SENATOR MONTGOMERY:    I would like  
17 to explain my vote.

18           ACTING PRESIDENT GRIFFO:    I will  
19 allow you the opportunity to speak.

20           SENATOR MONTGOMERY:    Thank you.

21           Mr. President, I have personally not  
22 met Jenny Rivera, but I see her qualifications  
23 and I've heard my colleagues speak so eloquently  
24 on all of them. And I certainly appreciate the  
25 many years that she has had and the depth and

1 breadth of her experience, so I'm happy to  
2 support this nomination.

3 I, having had the experience myself  
4 as an African-American woman, when you get to the  
5 certain point where it's time for you to break  
6 the ceiling or move up, they say you just didn't  
7 have the right experience, you didn't have that  
8 many years enough, you didn't have the proper  
9 experience -- there's always an excuse. This is  
10 the oldest line in the book when you don't want  
11 to vote or to allow someone to move in position.

12 So, Mr. President, I don't know her  
13 personally, but I am very proud to be able to  
14 stand here today in this chamber and vote for a  
15 woman who is eminently qualified to be on the  
16 Court of Appeals. I vote aye.

17 ACTING PRESIDENT GRIFFO: Thank  
18 you, Senator Montgomery.

19 Having heard the ayes and the nays,  
20 having called for them and heard them, the ayes  
21 have it. Jenny Rivera is hereby confirmed as a  
22 New York State Court of Appeals judge.

23 (Sustained applause.)

24 ACTING PRESIDENT GRIFFO: May I  
25 have order, please.

1                   On behalf of the Senate of the State  
2                   of New York, we'd like to extend our  
3                   congratulations and best wishes to Professor  
4                   Rivera. Professor Rivera is here today with her  
5                   domestic partner, Audie Serrano, as well as close  
6                   friends and colleagues from the CUNY law system.

7                   Congratulations again, Professor  
8                   Rivera, and good luck.

9                   (Applause.)

10                  ACTING PRESIDENT GRIFFO:    May I  
11                  have order in the chamber.

12                  Senator Libous.

13                  SENATOR LIBOUS:    Thank you,  
14                  Mr. President. We do have a calendar to go  
15                  over.

16                  Could we please have the reading of  
17                  the noncontroversial calendar.

18                  ACTING PRESIDENT GRIFFO:    The  
19                  Secretary will read.

20                  THE SECRETARY:    Calendar Number 15,  
21                  by Senator Fuschillo, Senate Print 772, an act to  
22                  amend the Vehicle and Traffic Law.

23                  ACTING PRESIDENT GRIFFO:    Read the  
24                  last section.

25                  THE SECRETARY:    Section 3. This

1 act shall take effect immediately.

2 ACTING PRESIDENT GRIFFO: Call the  
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT GRIFFO: Announce  
6 the results.

7 THE SECRETARY: In relation to  
8 Calendar Number 15, those recorded in the  
9 negative are Senators Adams, Espaillat, Gipson,  
10 Hoylman, Montgomery, Perkins, Squadron and  
11 Tkaczyk. Also Senator --

12 ACTING PRESIDENT GRIFFO: I'm going  
13 to ask for order in the house. Please leave the  
14 chamber if you're conducting business. Members,  
15 please take your seats.

16 THE SECRETARY: Also Senator  
17 Parker.

18 Ayes, 52. Nays, 9.

19 ACTING PRESIDENT GRIFFO: The bill  
20 is passed.

21 THE SECRETARY: Calendar Number 18,  
22 by Senator Marcellino, Senate Print 1519, an act  
23 to amend the Vehicle and Traffic Law.

24 ACTING PRESIDENT GRIFFO: Read the  
25 last section.

1           THE SECRETARY:   Section 6.  This  
2   act shall take effect on the 120th day.

3           ACTING PRESIDENT GRIFFO:  Call the  
4   roll.

5           (The Secretary called the roll.)

6           THE SECRETARY:  Ayes, 61.

7           ACTING PRESIDENT GRIFFO:  The bill  
8   is passed.

9           THE SECRETARY:  Calendar Number 19,  
10   by Senator DeFrancisco, Senate Print 1790, an act  
11   to amend the Navigation Law.

12          ACTING PRESIDENT GRIFFO:  Read the  
13   last section.

14          THE SECRETARY:  Section 5.  This  
15   act shall take effect on the 120th day.

16          ACTING PRESIDENT GRIFFO:  Call the  
17   roll.

18          (The Secretary called the roll.)

19          THE SECRETARY:  Ayes, 61.

20          ACTING PRESIDENT GRIFFO:  The bill  
21   is passed.

22          THE SECRETARY:  Calendar Number 20,  
23   by Senator Bonacic, Senate Print 1878, an act to  
24   amend the Vehicle and Traffic Law.

25          ACTING PRESIDENT GRIFFO:  Read the

1 last section.

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

4 ACTING PRESIDENT GRIFFO: Call the  
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes, 60. Nays,  
8 1. Senator Parker recorded in the negative.

9 ACTING PRESIDENT GRIFFO: The bill  
10 is passed.

11 THE SECRETARY: Calendar Number 21,  
12 by Senator Addabbo, Senate Print 1919, an act to  
13 amend the Vehicle and Traffic Law.

14 ACTING PRESIDENT GRIFFO: Read the  
15 last section.

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

18 ACTING PRESIDENT GRIFFO: Call the  
19 roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 61.

22 ACTING PRESIDENT GRIFFO: The bill  
23 is passed.

24 THE SECRETARY: Calendar Number 23,  
25 by Senator Golden, Senate Print 2503, an act to

1 amend the Vehicle and Traffic Law.

2 ACTING PRESIDENT GRIFFO: Read the  
3 last section.

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

6 ACTING PRESIDENT GRIFFO: Call the  
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 59. Nays,  
10 2. Senators Montgomery and Parker recorded in  
11 the negative.

12 ACTING PRESIDENT GRIFFO: The bill  
13 is passed.

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

16 SENATOR LIBOUS: Thank you,  
17 Mr. President.

18 Is there any further business at the  
19 desk?

20 ACTING PRESIDENT GRIFFO: There is  
21 no further business before the desk.

22 SENATOR LIBOUS: Mr. President, at  
23 this time, on behalf of Senator Klein,  
24 Senator Skelos, I hand up the following committee  
25 assignments and ask that such assignments be

1 filed in the Journal.

2 ACTING PRESIDENT GRIFFO: So  
3 ordered.

4 Senator Libous.

5 SENATOR LIBOUS: Mr. President,  
6 there being no further business, I move that the  
7 Senate adjourn until Tuesday, February 12th, at  
8 11:00 a.m.

9 ACTING PRESIDENT GRIFFO: On  
10 motion, the Senate stands adjourned until  
11 Tuesday, February 12th, at 11:00 a.m.

12 Senate adjourned.

13 (Whereupon, at 4:59 p.m., the Senate  
14 adjourned.)

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