

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 January 12, 2022

11 11:16 a.m.

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13
14 REGULAR SESSION

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18 SENATOR JAMAAL T. BAILEY, Acting President

19 ALEJANDRA N. PAULINO, ESQ., Secretary

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

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

4 I ask everyone present to please
5 rise and recite the Pledge of Allegiance.

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

8 ACTING PRESIDENT BAILEY: In the
9 absence of clergy, let us bow our heads in a
10 moment of silent reflection or prayer.

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

13 ACTING PRESIDENT BAILEY: The
14 reading of the Journal.

15 THE SECRETARY: In Senate, Tuesday,
16 January 11, 2022, the Senate met pursuant to
17 adjournment. The Journal of Monday, January 10,
18 2022, was read and approved. On motion, the
19 Senate adjourned.

20 ACTING PRESIDENT BAILEY: Without
21 objection, the Journal stands approved as read.

22 Presentation of petitions.

23 Messages from the Assembly.

24 Messages from the Governor.

25 Reports of standing committees.

1 Reports of select committees.

2 Communications and reports from
3 state officers.

4 Motions and resolutions.

5 Senator Gianaris.

6 SENATOR GIANARIS: Thank you,
7 Mr. President.

8 At this time can we please take up
9 previously adopted Resolution 1264, by
10 Senator Mannion, read its title only and
11 recognize Senator Mannion.

12 ACTING PRESIDENT BAILEY: The
13 Secretary will read.

14 THE SECRETARY: Senate Resolution
15 1264, by Senator Mannion, commending Dr. Stephen
16 Thomas upon the occasion of his designation as
17 recipient of a Liberty Medal, the highest honor
18 bestowed upon an individual by the New York State
19 Senate.

20 ACTING PRESIDENT BAILEY: Senator
21 Mannion on the resolution.

22 SENATOR MANNION: Thank you,
23 Mr. President.

24 I rise to honor Dr. (Colonel)
25 Stephen Thomas of SUNY Upstate Medical

1 University, a veteran of the armed forces, a
2 virologist and vaccinologist, a father and
3 husband, and now recipient of the New York State
4 Senate Liberty Medal, the highest award this body
5 can bestow.

6 Amid an unprecedented global
7 pandemic, Dr. Thomas's expertise has been
8 invaluable in developing lifesaving vaccines,
9 understanding and responding to this virus, and
10 of course treating patients.

11 When COVID-19 began to spread in the
12 United States, he was put in charge of the
13 COVID-19 Incident Command at SUNY Upstate. He is
14 at the forefront of critical advancements related
15 to both vaccine development and large-scale
16 testing implementation. Knowing Dr. Thomas, he
17 would make it a point to also recognize the
18 excellent team of researchers, doctors and nurses
19 with whom he works in Syracuse to protect public
20 health around the world through groundbreaking
21 science and innovation.

22 Under Dr. Thomas's guidance,
23 Syracuse was one of the earliest cities to house
24 drive-up testing and triage sites where anyone
25 showing signs of the virus could be tested.

1 In November of 2020, Dr. Thomas was
2 appointed lead principal investigator for the
3 worldwide Pfizer vaccine trial. Make no mistake,
4 the work of Dr. Thomas and his team has saved
5 untold millions of lives around the world through
6 safe and effective vaccinations.

7 Mr. President, there's not enough
8 time to speak to all of Dr. Thomas's
9 accomplishments, and there are not enough words
10 to express our gratitude to him.

11 To Dr. Thomas, I know that your son
12 Mac is looking down and carrying your heart, just
13 as you carry his. Thank you, sir, for your
14 extraordinary service to the people of this state
15 and beyond.

16 Thank you, Mr. President.

17 ACTING PRESIDENT BAILEY: Senator
18 May on the resolution.

19 SENATOR MAY: Thank you,
20 Mr. President.

21 And thank you, Senator Mannion, for
22 bringing this resolution and for honoring
23 Dr. Thomas with a Liberty Medal, which typically
24 goes to people who have saved lives.

25 There's probably no one on earth who

1 has saved more lives than Dr. Thomas because the
2 Pfizer vaccine, which he not only was
3 instrumental in getting tested, but he also was
4 instrumental in getting it approved for use, has
5 saved tens of millions of lives around the world.

6 Dr. Thomas is Senator Mannion's
7 constituent, but he works in my district at SUNY
8 Upstate Medical University. And I could not be
9 more proud to have SUNY Upstate in my district,
10 where not only did they host the tests for the
11 Pfizer vaccine, but Dr. Thomas's colleague,
12 Frank Middleton, developed the pooled
13 surveillance testing and the individual saliva
14 testing that were approved by the FDA and that
15 have also been instrumental in controlling the
16 virus and in helping to reduce the number of
17 deaths that we have seen.

18 So I just second what Senator
19 Mannion said and say we owe a huge debt of
20 gratitude to Dr. Thomas, Dr. Middleton, and to
21 the whole SUNY Upstate Medical University
22 community.

23 So I am grateful for this resolution
24 and pleased to be able to speak on it.

25 Thank you.

1 ACTING PRESIDENT BAILEY: The
2 resolution was previously adopted on
3 January 11th.

4 Senator Gianaris.

5 SENATOR GIANARIS: Mr. President,
6 at the request of Senator Mannion, that
7 resolution is open for cosponsorship.

8 ACTING PRESIDENT BAILEY: The
9 resolution is open for cosponsorship. Should you
10 choose not to be a cosponsor of the resolution,
11 please notify the desk.

12 Senator Gianaris.

13 SENATOR GIANARIS: Please take up
14 the reading of the calendar.

15 ACTING PRESIDENT BAILEY: The
16 Secretary will read.

17 THE SECRETARY: Calendar Number 18,
18 Senate Print 7690, by Senator Skoufis, an act to
19 amend the Public Health Law.

20 ACTING PRESIDENT BAILEY: Read the
21 last section.

22 THE SECRETARY: Section 2. This
23 act shall take effect on the same date and in the
24 same manner as a chapter of the Laws of 2021.

25 ACTING PRESIDENT BAILEY: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT BAILEY: Announce
4 the results.

5 THE SECRETARY: In relation to
6 Calendar Number 18, those Senators voting in the
7 negative are Senators Akshar, Borrello, Gallivan,
8 Griffo, Lanza, Oberacker, O'Mara, Ortt, Rath and
9 Stec.

10 Ayes, 53. Nays, 10.

11 ACTING PRESIDENT BAILEY: The bill
12 is passed.

13 THE SECRETARY: Calendar Number 20,
14 Senate Print 7692, by Senator Breslin, an act to
15 amend the Insurance Law.

16 ACTING PRESIDENT BAILEY: Read the
17 last section.

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

20 ACTING PRESIDENT BAILEY: Call the
21 roll.

22 (The Secretary called the roll.)

23 ACTING PRESIDENT BAILEY: Announce
24 the results.

25 THE SECRETARY: In relation to

1 Calendar Number 20, those Senators voting in the
2 negative are Senators Borrello, Boyle, Gallivan,
3 Griffo, Helming, Jordan, Lanza, Martucci,
4 Oberacker, O'Mara, Ortt, Palumbo, Rath, Ritchie,
5 Serino, Stec, Tedisco and Weik.

6 Ayes, 45. Nays, 18.

7 ACTING PRESIDENT BAILEY: The bill
8 is passed.

9 THE SECRETARY: Calendar Number 22,
10 Senate Print 7694, by Senator Rivera, an act to
11 amend the Public Health Law.

12 ACTING PRESIDENT BAILEY: Read the
13 last section.

14 THE SECRETARY: Section 2. This
15 act shall take effect on the same date and in the
16 same manner as a chapter of the Laws of 2021.

17 ACTING PRESIDENT BAILEY: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT BAILEY: Announce
21 the results.

22 THE SECRETARY: Ayes, 63.

23 ACTING PRESIDENT BAILEY: The bill
24 is passed.

25 THE SECRETARY: Calendar Number 23,

1 Senate Print 7695, by Senator Sepúlveda, an act
2 to amend a chapter of the Laws of 2021.

3 ACTING PRESIDENT BAILEY: Read the
4 last section.

5 THE SECRETARY: Section 2. This
6 act shall take effect on the same date and in the
7 same manner as a chapter of the Laws of 2021.

8 ACTING PRESIDENT BAILEY: Call the
9 roll.

10 (The Secretary called the roll.)

11 ACTING PRESIDENT BAILEY: Announce
12 the results.

13 THE SECRETARY: In relation to
14 Calendar 23, voting in the negative:
15 Senator Savino.

16 Ayes, 62. Nays, 1.

17 ACTING PRESIDENT BAILEY: The bill
18 is passed.

19 THE SECRETARY: Calendar Number 24,
20 Senate Print 7696, by Senator Brouk, an act to
21 amend the Public Health Law and the Environmental
22 Conservation Law.

23 ACTING PRESIDENT BAILEY: Read the
24 last section.

25 THE SECRETARY: Section 3. This

1 act shall take effect on the same date and in the
2 same manner as a chapter of the Laws of 2021.

3 ACTING PRESIDENT BAILEY: Call the
4 roll.

5 (The Secretary called the roll.)

6 ACTING PRESIDENT BAILEY: Announce
7 the results.

8 THE SECRETARY: In relation to
9 Calendar 24, those Senators voting in the
10 negative are Senators Akshar, Borrello, Boyle,
11 Gallivan, Griffo, Helming, Jordan, Lanza,
12 Mattera, Oberacker, O'Mara, Ortt, Palumbo, Rath,
13 Ritchie, Stec and Tedisco.

14 Ayes, 46. Nays, 17.

15 ACTING PRESIDENT BAILEY: The bill
16 is passed.

17 THE SECRETARY: Calendar Number 27,
18 Senate Print 7699, by Senator Stavisky, an act to
19 amend the Education Law.

20 ACTING PRESIDENT BAILEY: Read the
21 last section.

22 THE SECRETARY: Section 2. This
23 act shall take effect on the same date and in the
24 same manner as a chapter of the Laws of 2021.

25 ACTING PRESIDENT BAILEY: Call the

1 roll.

2 (The Secretary called the roll.)

3 ACTING PRESIDENT BAILEY: Announce
4 the results.

5 THE SECRETARY: Ayes, 63.

6 ACTING PRESIDENT BAILEY: The bill
7 is passed.

8 THE SECRETARY: Calendar Number 28,
9 Senate Print 7700, by Senator Mayer, an act to
10 amend a chapter of the Laws of 2021.

11 ACTING PRESIDENT BAILEY: Read the
12 last section.

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

15 ACTING PRESIDENT BAILEY: Call the
16 roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT BAILEY: Announce
19 the results.

20 THE SECRETARY: In relation to
21 Calendar Number 28, voting in the negative:
22 Senator Skoufis.

23 Ayes, 62. Nays, 1.

24 ACTING PRESIDENT BAILEY: The bill
25 is passed.

1 THE SECRETARY: Calendar Number 30,
2 Senate Print 7702, by Senator Kaminsky, an act to
3 amend the Environmental Conservation Law.

4 ACTING PRESIDENT BAILEY: Read the
5 last section.

6 THE SECRETARY: Section 2. This
7 act shall take effect on the same date and in the
8 same manner as a chapter of the Laws of 2021.

9 ACTING PRESIDENT BAILEY: Call the
10 roll.

11 (The Secretary called the roll.)

12 ACTING PRESIDENT BAILEY: Announce
13 the results.

14 THE SECRETARY: Ayes, 63.

15 ACTING PRESIDENT BAILEY: The bill
16 is passed.

17 THE SECRETARY: Calendar Number 34,
18 Senate Print 7706, by Senator Harckham, an act to
19 amend the Executive Law and the Public Health
20 Law.

21 ACTING PRESIDENT BAILEY: Read the
22 last section.

23 THE SECRETARY: Section 3. This
24 act shall take effect on the same date and in the
25 same manner as a chapter of the Laws of 2021.

1 ACTING PRESIDENT BAILEY: Call the
2 roll.

3 (The Secretary called the roll.)

4 ACTING PRESIDENT BAILEY: Announce
5 the results.

6 THE SECRETARY: Ayes, 63.

7 ACTING PRESIDENT BAILEY: The bill
8 is passed.

9 THE SECRETARY: Calendar Number 35,
10 Senate Print 7707, by Senator Ryan, an act to
11 amend the Alcoholic Beverage Control Law.

12 ACTING PRESIDENT BAILEY: Read the
13 last section.

14 THE SECRETARY: Section 3. This
15 act shall take effect on the same date and in the
16 same manner as a chapter of the Laws of 2021.

17 ACTING PRESIDENT BAILEY: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT BAILEY: Announce
21 the results.

22 THE SECRETARY: Ayes, 63.

23 ACTING PRESIDENT BAILEY: The bill
24 is passed.

25 Senator Gianaris, that completes the

1 reading of today's calendar.

2 SENATOR GIANARIS: At this time,
3 Mr. President, I believe there's a report of the
4 Judiciary Committee at the desk. Can we please
5 take that up and recognize Senator Hoylman.

6 ACTING PRESIDENT BAILEY: The
7 Secretary will read.

8 THE SECRETARY: Senator Hoylman,
9 from the Committee on Judiciary, reports the
10 following nomination.

11 As an associate judge of the Court
12 of Appeals, Shirley Troutman.

13 ACTING PRESIDENT BAILEY: Senator
14 Hoylman.

15 SENATOR HOYLMAN: Thank you,
16 Mr. President. I rise to move the nomination of
17 Justice Shirley Troutman.

18 First I want to thank Judge Eugene
19 Fahey for his years of service to the State of
20 New York on the Court of Appeals. He is retiring
21 due to an ageist provision, I would suggest, of
22 our State Constitution that forces all judges to
23 retire at age 70.

24 I think it's a shame that we as a
25 state lose so many qualified judges with such a

1 wealth of experience, regardless of merit or
2 their ability to continue to serve the people of
3 New York. And that's something, as the chair of
4 the Judiciary Committee, I hope to continue to
5 explore this session.

6 But now on to the nominee before
7 this house. I had the honor, Mr. President, of
8 chairing yesterday's Judiciary Committee meeting,
9 during which we had a substantive and informative
10 discussion with Appellate Division Justice
11 Shirley Troutman. I thank my colleagues on the
12 committee for their thoughtful questions to
13 Justice Troutman, and I also want to thank
14 Majority Leader Andrea Stewart-Cousins and the
15 staff for supporting the committee's work and
16 ensuring the committee and the Senate have
17 sufficient time and resources to effectively
18 deliberate Justice Troutman's nomination.

19 Justice Troutman is Governor
20 Hochul's first judicial nomination, and she is an
21 historic one. She will be the second-ever Black
22 woman to serve on New York's highest court, and
23 the only Black woman on the current Court of
24 Appeals.

25 It's a fitting nomination,

1 Mr. President, before this chamber with so many
2 Black women leading the way -- of course our
3 leader, Andrea Stewart-Cousins, her chief of
4 staff, Shontell Smith. The Secretary of the
5 Senate is a woman of color. And this is another
6 proud moment in that legacy that has only
7 recently been established.

8 Justice Troutman is not a native
9 New Yorker, but she got here as soon as she
10 could. After growing up in Georgia, she moved to
11 Buffalo to attend SUNY Buffalo and later got her
12 law degree right here at Albany Law School.

13 She immediately entered public
14 service and soon began working her way up the
15 judicial ranks, first becoming a Buffalo City
16 Court judge in 1994, then County Court,
17 Supreme Court, and finally elevated to the
18 Appellate Division. I wish I had that career
19 trajectory. She was elevated to the Appellate
20 Division Fourth Department in 2016.

21 While this resume is impressive, it
22 only tells part of Justice Troutman's inspiring
23 story. As many know, when the Commission on
24 Judicial Nomination began to examine candidates
25 to present to the Governor, I led many of my

1 colleagues in calling on the commission to
2 present candidates that had a background in civil
3 legal services or public defense work. The
4 commission did present two candidates with such a
5 background, for which we do thank them.

6 When Governor Hochul nominated
7 Justice Troutman, I know that there were many
8 legal advocates and practitioners that we spoke
9 to who were initially uncertain about her resume
10 on paper because it seemed like so many other
11 nominations they had seen before.

12 Well, after meeting with
13 Justice Troutman and listening to our discussion
14 in committee yesterday, I can assure you
15 Governor Hochul has made a fantastic choice.
16 Justice Troutman will be an excellent addition to
17 the bench, and I wholeheartedly support her
18 nomination.

19 Let me explain to you a bit about
20 what I mean. Justice Troutman demonstrated that
21 she understands the perspective of our state's
22 most vulnerable. She knows what it means to deny
23 someone their liberty, even for a single day.
24 Yesterday she testified that she physically
25 trembled, she said, when she first had to

1 sentence a defendant to more than 10 years in
2 prison, because she realized, Mr. President, the
3 solemn and terrifying impact the court was
4 imposing on that individual.

5 Justice Troutman also understands
6 better than anyone the horrific scourge of racial
7 injustice that is in so many ways baked into our
8 legal system, unfortunately. For the last
9 several years she has cochaired the Franklin
10 Williams Commission, which educates and advises
11 decisionmakers in the New York court system on
12 issues affecting both employees and litigants of
13 color, and implements recommendations developed
14 to address these issues.

15 And I want to also acknowledge the
16 Chief Judge, who is here, for her splendid work
17 in that regard with the commission that she
18 initiated under the leadership of Jeh Johnson.

19 As part of that work,
20 Justice Troutman was intimately involved in the
21 development of the recent report that the
22 Chief Judge commissioned that exposed many ways
23 that our court system disadvantages and
24 disrespects litigants of color. So we expect
25 that work to continue under the Chief Judge's

1 leadership, along with Justice Troutman.

2 On a personal level,
3 Justice Troutman has dealt with racism in the
4 legal system. I was shocked when she relayed the
5 story yesterday of a potential juror that openly
6 avowed that she could not render a fair verdict
7 because of the defendant's race.

8 I was shocked but, sadly, I'm sure
9 Justice Troutman has heard it before. While I
10 and many others would have more than a few choice
11 words to say to such a person as nonjudges, most
12 of which are unsuitable for this body,
13 Justice Troutman calmly recognized the importance
14 of the person's honesty for the purposes of
15 building an impartial jury, and she continued to
16 run the jury selection with professionalism and
17 poise.

18 Finally, I want to call attention to
19 one recent opinion Justice Troutman wrote that
20 particularly struck me. In this case, a young
21 woman was being attacked, bullied, in her high
22 school. When a teacher stepped in to break up
23 the attack the young woman, not knowing who the
24 person was, and believing it may have been a
25 second attacker, lashed out with a knife and

1 injured the teacher.

2 The young woman was convicted, and
3 by all accounts she acknowledged that her actions
4 were wrong. But when it came time for
5 sentencing, the trial court ignored the
6 recommendations of the defense, the prosecution,
7 and even the victim, and denied the defendant
8 youthful offender status. This young woman was a
9 high school student.

10 When the case came before Justice
11 Troutman in the Appellate Division, she
12 recognized the injustice that this court ruling
13 would render. She specifically cited the
14 intersectionality at play in the defendant's
15 case. She put forward statistics showing that
16 prosecutors dismissed seven out of every 10 cases
17 involving white girls, as opposed to only three
18 out of every 10 cases for African-American girls.

19 Using these facts and her
20 understanding of what it must be like to be this
21 young woman involved in the criminal justice
22 system, Justice Troutman was able to convince her
23 colleagues to unanimously support her order to
24 reverse the trial court and grant youthful
25 offender status, exercising the court's

1 discretion in the interest of justice.

2 I'm certain that Justice Troutman
3 will continue her stellar work on the Court of
4 Appeals. I'm certain that the Chief Judge
5 welcomes her into the ranks of this esteemed body
6 which is so important to New Yorkers at every
7 level. When the time comes, I'll be voting aye
8 on this nomination.

9 I'm very proud to hereby move her
10 nomination, Mr. President, to the floor. And
11 please recognize, of course, any Senator who
12 wishes to speak on the nomination.

13 Thank you, Mr. President.

14 ACTING PRESIDENT BAILEY: Thank
15 you, Senator Hoylman.

16 Senator Kennedy on the nomination.

17 SENATOR KENNEDY: Thank you very
18 much, Mr. President.

19 I rise to support Governor Hochul's
20 extraordinary nomination of one of Buffalo and
21 all of New York's finest jurists to the position
22 of associate judge on the Court of Appeals, the
23 Honorable Shirley Troutman.

24 Welcome, Judge Troutman, to these
25 auspicious chambers, as well as the Chief Judge

1 of the courts here as well today.

2 I want to thank the Governor for
3 putting forward this nomination. I want to thank
4 our great Majority Leader, Andrea
5 Stewart-Cousins, for moving this nomination to
6 the floor today, and our great Judiciary
7 chairman, who articulated the amazing history and
8 experience, expertise, professionalism and heart
9 that Justice Troutman will bring to the court's
10 highest position.

11 Justice Troutman has served with
12 distinction throughout her career, from her time
13 as prosecutor in the Erie County District
14 Attorney's office to the New York State Attorney
15 General's office, Assistant U.S. Attorney for the
16 Western District, to her terms on the Buffalo
17 City Court, the Erie County Court, the State
18 Supreme Court and currently as an associate
19 justice for the Appellate Division since 2016.

20 Her honors and awards speak for
21 themselves: The Outstanding Service to the
22 University and Community by a Non-Alumnus Award
23 from the U.B. School of Law, the Trailblazer
24 Award from the Minority Bar Association of
25 Western New York, the M. Dolores Denman Lady

1 Justice Award from the Women's Bar Association --
2 and many more, Mr. President, including being
3 named to the Bennett High School Alumni Honor
4 Roll for Law, a sign of a Western New Yorker who
5 continues to make her hometown incredibly proud,
6 and a demonstration to the thousands of current
7 Buffalo public school students that they can
8 achieve great things.

9 In fact, not only is Justice
10 Troutman a product of the Buffalo public schools,
11 but she earned her undergraduate degree at SUNY
12 Buffalo, a shining example of the merits of our
13 public education system.

14 The Trailblazer Award she received
15 from the Minority Bar Association of Western
16 New York was fitting when she received it back in
17 2019, and it's even more fitting now, as Justice
18 Troutman will be only the second Black woman to
19 sit on the Court of Appeals. It shouldn't have
20 taken this long. It shouldn't have taken until
21 2022. But I know that Justice Troutman will lead
22 the way to a much greater diversity on the court
23 that better reflects our state.

24 Justice Troutman's commitment to
25 justice and the rule of law is unquestioned, and

1 Western New Yorkers know that she makes her
2 rulings with a fair-minded compassion and empathy
3 that makes it clear how seriously she takes the
4 gravity of her job. It's something the rest of
5 New York State will quickly learn as well.

6 She's a member of the Ethics
7 Commission of the United Court System, cochair of
8 the Franklin H. Williams Judicial Commission, and
9 a member of the Advisory Committee on Judicial
10 Ethics, demonstrating that we are elevating
11 someone in our state's highest court who is
12 focused on delivering justice for all.

13 I think that the great Hazel Dukes
14 of the New York State Conference of the NAACP put
15 it best when she said that Justice Troutman,
16 quote, has lived the experience to ensure she
17 treats all who come before her with compassion,
18 dignity and respect.

19 It's an incredible honor for me here
20 today, Mr. President, to stand on this floor to
21 nominate -- second the nomination of such an
22 exemplary individual.

23 And speaking of exemplary
24 individuals, I want to thank the great Appellate
25 Court Justice Gene Fahey for his outstanding

1 service to our state, and we wish him the best as
2 he begins the next chapter in his life.

3 To Justice Troutman, her husband
4 Kenneth, her son Stephen and daughter Lauren,
5 congratulations on a well-deserved and -earned
6 appointment. And we know that you will continue
7 to make your hometown and all of New York State
8 proud with your work. Congratulations.

9 Thank you, Mr. President. I'll be
10 voting aye on the floor today.

11 ACTING PRESIDENT BAILEY: Senator
12 Ryan on the nomination.

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

15 So Judge Troutman is a Buffalo
16 success story. She's one of six in her family.
17 She was born in Georgia. Her family joined the
18 great migration and moved from Georgia to Buffalo
19 to participate in our booming industrial economy.

20 In Buffalo when people say "Where
21 did you go to school," they don't mean college,
22 they mean high school. And Judge Troutman is a
23 proud graduate of Bennett High School. She's a
24 Tiger through and through. She went to UB
25 undergraduate, Albany Law School.

1 These are all really good things,
2 and there's many things that make Judge Troutman
3 uniquely qualified to be on the Court of Appeals.
4 Six years in the Appellate Division. Served on
5 the Supreme Court. Served on the Erie County
6 Court. Buffalo City Court judge.

7 But I think of all the great
8 attributes that this candidate has,
9 Mr. President, her time in the Buffalo City Court
10 is what I believe makes her uniquely qualified to
11 be on the Court of Appeals. And her time there
12 gives you a glimpse, gives you a strong idea of
13 the type of justice she will be on the Court of
14 Appeals.

15 You know, many lawyers view city
16 court as a low-stakes court. Now, while it might
17 be for lawyers, it's not for the people who are
18 appearing in front of that court. Buffalo City
19 Court, it's a people's court. Often it's the
20 only court people ever see, their only
21 interaction with the judiciary. It's where
22 neighbors settle disputes. It's where landlords
23 and tenants go. Low-level criminal cases. It's
24 a court often of down-faced young people and
25 really angry parents. It's a high-volume, often

1 chaotic place.

2 And it was there that I first met
3 Judge Troutman. I appeared in front of her
4 representing indigent defendants dozens and
5 dozens of times. These people were having the
6 worst day of their lives. And in that court,
7 Judge Troutman somehow slowed things down for
8 people. She somehow reduced the chaos. And she
9 treated each defendant with respect. She
10 carefully explained everyone's rights, how the
11 process was going to work, and she kept that
12 level of respect throughout the entire process.

13 So that's who Judge Troutman is as a
14 person, and that's how she is as a jurist. And I
15 am confident that she is going to be a tremendous
16 asset to the Court of Appeals.

17 I thank Justice Gene Fahey for his
18 wonderful career in public service. And if you
19 can believe this, being on the Court of Appeals
20 was just one chapter of Judge Fahey's public
21 service.

22 I thank the Judiciary chair, Brad
23 Hoylman, and Leader Stewart-Cousins for bringing
24 this nominee through the process and to the floor
25 today.

1 To Judge Troutman's husband Kenneth,
2 to her son Stephen and daughter Lauren, who are
3 with us today in the mezzanine, I say
4 congratulations.

5 And to Judge Troutman, I say to you
6 the people of Buffalo are proud of you today, and
7 I look forward to casting my vote in the
8 affirmative.

9 Thank you, Mr. President.

10 ACTING PRESIDENT BAILEY: Senator
11 Lanza on the nomination.

12 SENATOR LANZA: Thank you,
13 Mr. President.

14 First, I want to commend the
15 Governor on this outstanding nomination, and I
16 want to thank Senator Hoylman for moving this
17 nomination to the floor today.

18 I want to briefly say, from one
19 former assistant district attorney to another, it
20 is a distinct privilege and honor to add my voice
21 of support for this nomination.

22 You know, Justice Troutman's entire
23 career has been characterized by intelligence,
24 compassion, and commonsense. And she possesses
25 an unrivaled grasp of the law. She's eminently

1 qualified, that is beyond a doubt.

2 I want to thank you, Justice
3 Troutman, for taking on this challenge, for
4 saying yes, for taking this job. It's an awesome
5 responsibility. There are tremendous sacrifices
6 to you and to your family. But I want to say, on
7 the behalf of the people of the State of New
8 York, that we are so blessed and fortunate that
9 you are saying yes.

10 You know, most people in the State
11 of New York really don't know what happens in the
12 Court of Appeals. And that's okay. But when you
13 find yourself before that court, it is probably
14 the most consequential moment in your life. And
15 I know that every litigant and every citizen of
16 the State of New York will be in good hands with
17 you on that bench.

18 So thank you. When the time comes,
19 Madam President, I will be voting in the
20 affirmative.

21 ACTING PRESIDENT PERSAUD: Senator
22 Bailey on the nomination.

23 SENATOR BAILEY: Thank you,
24 Madam President.

25 The only bad news is that she

1 goes -- the honorable -- she goes from "Justice"
2 to "Judge." But if you're Shirley Troutman, if
3 you're somebody like her, you know titles don't
4 matter. And if -- the reason why you're in this
5 position, Your Honor, is because titles don't
6 matter to you; the work does.

7 It is an incredibly fulfilling day
8 for me, as a person of color -- as an attorney of
9 color who has been in courtrooms and seen the
10 lack of diversity, who has experienced the lack
11 of diversity -- to see that we are finally, in
12 the State of New York, amending some of the
13 things that have been so wrong with our justice
14 system and our judicial system for so long.

15 Your Honor, you represent what is
16 great about our justice system: Diversity of
17 thought, diversity of practice, diversity of
18 experience. Not just you and diversity, but the
19 diversity in the work that you have done
20 throughout your storied legal career. It is no
21 mistake why you're here. It's because of hard
22 work, dedication, diligence, understanding, and
23 an unrivaled legal acumen -- the reason why
24 you're here.

25 But what you represent is far

1 greater. What you represent as only the second
2 Black woman to ascend to our state's highest
3 court is something that will resonate not just in
4 my mind, but in the minds of young women and men
5 of color, to see that when you're up there, that
6 they can do that too.

7 Representation matters. It matters
8 to see people like you in these positions, in
9 decision-making positions, in positions of
10 authority that few if any have ascended to. Your
11 ascension to this position comes with, I would
12 say -- I don't want to say a heavy burden,
13 Your Honor. But I want you to know that my two
14 daughters are going to be watching. And that
15 daughters and sons throughout this state, Black,
16 brown, Asian and white, no matter who they are,
17 they're going to be watching, because of what you
18 represent up here.

19 Again, it's one of these moments in
20 this chamber that we get to come together as
21 Democrats and Republicans and those who respect
22 the court system and what judges do, and we get
23 to unite around a common -- not just good, a
24 common great. And that great is you, Your Honor.

25 My grandparents also did that great

1 migration with my family. Not from Georgia, from
2 Johnson county, North Carolina. And seeing the
3 possible is something that was always what my
4 grandparents wanted my father and his brothers
5 and sisters to do. And you, you are that
6 possible. The only bad thing -- the second bad
7 thing is that you're not from the Bronx. That
8 would have made this even better.

9 But you know, Tim Kennedy and Sean
10 Ryan and our Western New York delegation, they
11 get to have a great one in this. And the
12 Governor has made an excellent choice here.

13 Madam President, I will be voting
14 aye on this nomination when the time is coming.
15 And Your Honor, I am so pleased that you will be
16 sitting on our state's highest court.

17 Congratulations.

18 ACTING PRESIDENT PERSAUD: Senator
19 Boyle on the nomination.

20 SENATOR BOYLE: Thank you,
21 Madam President.

22 I rise, as the ranking Minority
23 member on the Judiciary Committee, to stand in
24 strong support of Justice Troutman's nomination
25 to the Court of Appeals. I congratulate the

1 Governor on nominating this outstanding nominee.

2 I'd also like to associate myself
3 with our distinguished chairman Brad Hoylman's
4 remarks about Judge Fahey, thank him for his
5 service, and agree that age discrimination is
6 rampant in this situation, where you can be
7 President of the United States in your seventies
8 and eighties, but not a judge in the State of
9 New York. And I look forward to working to
10 change that with you as well.

11 I won't reiterate everything that's
12 been -- the wonderful remarks about Justice
13 Troutman and her outstanding background. She's a
14 person of intelligence and integrity. I've
15 looked at her bio, and I studied, matriculated at
16 Albany Law School at the same time. She's a lot
17 smarter than I am, and that's why I'm glad she's
18 ascending to this high position and I'm right
19 here with you folks.

20 I think that as a former prosecutor,
21 the minority party is really impressed and
22 hopeful. We have some big issues in criminal
23 justice reform, as we know. Some big cases will
24 be coming up to the Court of Appeals. I know
25 that as a former prosecutor, then-Judge Troutman

1 will be able to look at not only the rights of
2 the accused, but the rights of the citizenry of
3 New York State to feel safe, as she reviews our
4 laws.

5 I'll end simply by saying that I
6 believe we had a unanimous bipartisan vote in the
7 Judiciary Committee for Shirley Troutman. That
8 says a lot about the way we all feel about the
9 type of nominee she is. I believe 2022 is going
10 to be a great year for Buffalo, as the Bills win
11 the Super Bowl. But for me as a Jets fan, I'm
12 happier that Justice Troutman is about to become
13 Judge Troutman.

14 I'm going to support her.

15 ACTING PRESIDENT BAILEY: Senator
16 Jackson on the nomination.

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

19 Good afternoon, my colleagues and to
20 all of the guests here today. I rise to explain
21 my support for the nomination of Justice Shirley
22 Troutman to the Court of Appeals.

23 First let me congratulate the
24 Majority Leader, Andrea Stewart-Cousins, and all
25 of the staff, along with the Judiciary chair,

1 Brad Hoylman, for moving this process of
2 confirming the nomination of Justice Troutman
3 along with such civility.

4 And I also want to commend our
5 Governor, Kathy Hochul, and this superb choice in
6 nominating Justice Shirley Troutman to the
7 Court of Appeals.

8 The decision concerning Justice
9 Troutman's nomination was easy for me to make.
10 As some of you may know, Justice Troutman was
11 deemed highly qualified by several bar
12 associations and has a long, distinguished career
13 on the bench. She has invaluable experience as a
14 prosecutor, trial court judge, and appellate
15 justice.

16 Her resume speaks loudly to her
17 qualifications that she has. Before joining the
18 court at the Appellate Division Fourth
19 Department, she was a justice for the Erie County
20 Supreme Court in the 8th Judicial District, a
21 Buffalo City Court judge, an assistant
22 United States attorney for the Western District
23 of New York, an assistant state attorney general,
24 and an assistant district attorney in
25 Erie County.

1 Given that background, I am happy to
2 vote for Justice Troutman based on her resume and
3 professional conduct. Justice Troutman has
4 proven to have strong concerns for taking due
5 process seriously. And moreover, she is a true
6 champion for justice, diversity, and inclusion.

7 Her appointment underscores the
8 importance of diversity, as she will be the only
9 judge of the Court of Appeals from Western
10 New York. And if confirmed by this body, the
11 New York State Senate, she will be the second
12 Black woman to serve on New York's highest court.
13 There is absolutely no doubt in my mind that
14 Justice Troutman is qualified to sit on the
15 highest court in our state.

16 Yet we also need to talk about the
17 need to ensure greater transparency in the
18 Court of Appeals process. It is my hope and
19 belief that going forward we can ensure that
20 persons appointed to the Court of Appeals will be
21 given greater scrutiny, given the enormity of the
22 court.

23 We must ensure diversity of work
24 backgrounds by nominating people that have
25 committed themselves to represent all New

1 Yorkers, and especially vulnerable New Yorkers in
2 the public defense, housing, immigration, court
3 and civil actions. And we must ensure nominees
4 to the court receive individual hearings so that
5 there is ample and sufficient time to ask
6 pertinent and important questions.

7 We must ensure sufficient time
8 between nomination and hearings and confirmation
9 on the floor so this body, the New York State
10 Senate, and Senators and the public may
11 understand and deliberate the qualifications of
12 each nominee.

13 These are some of the reforms needed
14 to guarantee a more robust and transparent
15 process for our judiciary.

16 I have no doubt that
17 Justice Troutman will faithfully serve the people
18 of New York on the Court of Appeals, and
19 therefore, Mr. President, I vote yes to confirm
20 Justice Shirley Troutman.

21 Thank you.

22 ACTING PRESIDENT BAILEY: Senator
23 Ortt on the nomination.

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

1 You know, sometimes the things that
2 receive the least attention are the most
3 important things that we do in this chamber. And
4 I don't know if there will be front-page stories
5 about this confirmation, but I really believe
6 that confirming judges, whether it's the highest
7 court or any court, is maybe one of the most
8 important things that we do from an impact on the
9 people of New York.

10 There will be folks who are in this
11 chamber for two years, four years, maybe longer,
12 but these judges will be in their position for
13 many years, making decisions that have real
14 impacts on our constituents, on New Yorkers, on
15 businesses, what have you, for many years --
16 maybe decades.

17 And it's great that we are able
18 to -- I didn't know -- I don't know Justice
19 Troutman personally. I had the privilege to
20 speak to her yesterday or two days ago. She was
21 very generous to be able to call me, and we went
22 over her qualifications. And I think that's what
23 I want to focus on, her qualifications.

24 I don't know her. I don't know that
25 I ever had the privilege to meet her. But

1 looking over her qualifications, there is no one
2 that could argue that she is in any way
3 unqualified. In fact, I have seen few judges in
4 my time here that are more qualified or better
5 qualified to sit on this court.

6 She was a former prosecutor. That's
7 important to me, it's important to a lot of
8 folks. She's been on -- as a prosecutor, of
9 course, as an assistant U.S. attorney, she knows
10 that side of the law. She understands the role
11 of protecting the public. But she's also -- as
12 has been noted, she's had a ton of experience as
13 a judge, as a jurist.

14 She was put on this path in part by
15 a former member of this house, then-Senator -- or
16 once-upon-a-time-Senator, then Mayor Tony
17 Masiello, someone that I know is familiar with
18 the Western New York delegation here, someone who
19 I consider a friend, someone who I know speaks
20 very highly of Judge Troutman.

21 And you see all the Western New York
22 delegation here today because at the end of the
23 day we're all kind of homers and we're always
24 going to stand up for one of our own when that's
25 warranted. And in this case it is definitely

1 warranted.

2 So I think those qualifications
3 should speak for themselves. I know at various
4 points with different majorities over the years
5 that I've been here, we've had some folks put up
6 for the highest court that I wouldn't have
7 questioned those qualifications, whether they
8 were law professors who had never practiced,
9 whether they had only spent one time on one part
10 or in one aspect of the criminal justice system.
11 But Judge Troutman -- you would want every judge
12 that you were ever before to have her background,
13 to have her grace, her professionalism, and I
14 think her real commitment to administering the
15 law in a fair but firm way on behalf of
16 New Yorkers.

17 So I wish you, Judge Troutman, all
18 the success. I congratulate you on a very -- a
19 great day for you and your family, a culmination
20 of a great career.

21 I do want to thank Senator Boyle,
22 our ranker on Judiciary, along with Senator
23 Hoylman and all of the members of the Judiciary
24 Committee for doing their job, which is to
25 actually vet and ask questions. And I think

1 that's very important, that whoever the Governor
2 is and whoever the nominee is, we have a role to
3 play. And I think it's important that the
4 Executive always remembers that. And I thank
5 them for their work on behalf of that process.

6 And I will -- to echo Senator
7 Boyle's point, I just want everyone to know that
8 while I asked her several questions about her
9 experience as a judge, as a prosecutor, as -- you
10 know, what experiences did she think set her up
11 to be uniquely qualified for this role, I also
12 asked her who her favorite football team was.

13 (Laughter.)

14 SENATOR ORTT: And -- because she
15 was from Georgia, so who the heck knows? You
16 know, I don't know --

17 (Laughter.)

18 SENATOR ORTT: Originally.

19 But she did answer, I will tell you,
20 in a manner that I will just simply say I thought
21 was befitting a judge on the highest court.
22 So --

23 (Laughter.)

24 SENATOR ORTT: -- that was a
25 private conversation I don't want to share.

1 But I just want to wish her the best
2 of luck. And I think the people of New York are
3 well served in this chamber, It will be a great
4 honor for this chamber to move forward her
5 nomination to the highest court.

6 So, Judge, congratulations.

7 Mr. President, I'll be voting aye.

8 ACTING PRESIDENT BAILEY: Majority
9 Leader Andrea Stewart-Cousins to close.

10 SENATOR STEWART-COUSINS: Thank you
11 so much, Mr. President.

12 What an honor it is to be here,
13 certainly, in the presence of my Chief Judge and
14 my Westchester home girl, shall we say. It is
15 good that we are here together to celebrate the
16 ascension of this incredible, incredible woman.

17 I didn't know Shirley Troutman.
18 Everybody that -- when the Governor called me and
19 she said "I have a great nominee, this Black
20 woman," I said "Wonderful," waiting to meet her
21 and hear about her. And then of course my own
22 Senators, Senator Kennedy, Senator Ryan, could
23 not say enough wonderful things about her. My
24 friend, the Majority Leader in the other side,
25 Crystal Peoples-Stokes. And it was just very

1 clear that your star had risen to a point that
2 few people actually have an opportunity to
3 experience.

4 And then you show up. And every
5 person you touched, from the staff to the
6 members -- in the Judiciary where, you know, the
7 incredible Brad Hoylman chairs, guiding that
8 process, having the insightful questions and the
9 answers, the experiences you shared and what you
10 exude as a person and a personality. You are
11 always a professor, you are always that person
12 who came up in your community, who fought and
13 struggled and learned and studied and kept
14 progressing and kept moving forward. You never,
15 ever lost sight of it.

16 And you touched and taught everyone.
17 You inspired people who aren't easily inspired,
18 because we see a lot, we know a lot, we do a
19 lot -- and quite honestly, it takes a lot to come
20 away from an interview feeling like you got
21 something.

22 Everyone got something. And today,
23 as we put you in a position where you can shine,
24 we know that you are bringing more than just your
25 historic presence, you are bringing with you the

1 promise of not only what we're going to celebrate
2 with Dr. King's birthday, but the promise of a
3 future for people who look like you and me and
4 everyone else. That we can indeed, if we handle
5 this dream properly, aspire and reach great
6 heights.

7 I am so happy that the star of
8 Western New York, the star of Buffalo, becomes
9 the shining star here in New York.

10 Congratulations to you and your
11 family. I can't wait to see how your presence
12 will transform so much of our great state.
13 Congratulations and all the best.

14 And of course, Mr. President, I vote
15 aye.

16 ACTING PRESIDENT BAILEY: Thank
17 you, Madam Leader.

18 The question is on the nomination.
19 All those in favor please signify by saying aye.

20 (Response of "Aye.")

21 ACTING PRESIDENT BAILEY: Opposed,
22 nay.

23 (No response.)

24 ACTING PRESIDENT BAILEY: The
25 nominee is confirmed.

1 Congratulations.

2 (Standing ovation.)

3 ACTING PRESIDENT BAILEY: Announce
4 the results.

5 THE SECRETARY: In the negative,
6 Senator Brisport.

7 ACTING PRESIDENT BAILEY: The
8 nominee is confirmed.

9 Senator Gianaris.

10 SENATOR GIANARIS: Thank you,
11 Mr. President.

12 Congratulations to our new judge of
13 the Court of Appeals.

14 On behalf of the Majority Leader,
15 there are hand-ups related to committee changes
16 for the Majority Conference. I ask they be filed
17 with the Journal.

18 ACTING PRESIDENT BAILEY: The
19 hand-ups are received and will be filed in the
20 Journal.

21 ACTING PRESIDENT BAILEY: Is there
22 any further business at the desk?

23 ACTING PRESIDENT BAILEY: There is
24 no further business at the desk.

25 SENATOR GIANARIS: I move to

1 adjourn until Tuesday, January 18th, at
2 3:00 p.m., with the intervening days being
3 legislative days.

4 ACTING PRESIDENT BAILEY: On
5 motion, the Senate stands adjourned until
6 Tuesday, January 18th, at 3:00 p.m., with the
7 intervening days being legislative.

8 (Whereupon, at 12:07 p.m., the
9 Senate adjourned.)
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