

1 NEW YORK STATE SENATE

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3  
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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