

1 NEW YORK STATE SENATE

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4 THE STENOGRAPHIC RECORD

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9 ALBANY, NEW YORK

10 March 30, 2023

11 11:41 a.m.

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14 REGULAR SESSION

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19 SENATOR JAMAAL T. BAILEY, Acting President

20 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: Happy
14 Opening Day.

15 (Laughter.)

16 ACTING PRESIDENT BAILEY: Reading of
17 the Journal.

18 THE SECRETARY: In Senate,
19 Wednesday, March 29, 2023, the Senate met
20 pursuant to adjournment. The Journal of Tuesday,
21 March 28, 2023, was read and approved. On
22 motion, the Senate adjourned.

23 ACTING PRESIDENT BAILEY: Without
24 objection, the Journal stands approved as read.

25 Presentation of petitions.

1 Messages from the Assembly.

2 The Secretary will read.

3 THE SECRETARY: Senator Addabbo
4 moves to discharge, from the Committee on
5 Finance, Assembly Bill Number 3777 and substitute
6 it for the identical Senate Bill 2123, Third
7 Reading Calendar 543.

8 ACTING PRESIDENT BAILEY: So
9 ordered.

10 Messages from the Governor.

11 Reports of standing committees.

12 Reports of select committees.

13 Communications and reports from
14 state officers.

15 Motions and resolutions.

16 Senator Gianaris.

17 SENATOR GIANARIS: Good morning,
18 Mr. President. And let's go, Mets.

19 ACTING PRESIDENT BAILEY: Let's go,
20 Mets.

21 SENATOR GIANARIS: Can we begin by
22 taking up previously adopted Resolution 609, by
23 Senator Gallivan, read its title and recognize
24 Senator Gallivan.

25 ACTING PRESIDENT BAILEY: The

1 Secretary will read.

2 THE SECRETARY: Senate Resolution
3 609, by Senator Gallivan, commending the
4 Erie County Federation of Snow Mobile Clubs for
5 their heroic efforts to rescue stranded people
6 during the Western New York Blizzard of 2022.

7 ACTING PRESIDENT BAILEY: Senator
8 Gallivan on the resolution.

9 SENATOR GALLIVAN: Thank you,
10 Mr. President.

11 As many of us know, Western New York
12 is no stranger to snowstorms. But even by local
13 standards, the blizzard that struck the region,
14 the Western New York region, on Christmas weekend
15 2022 was truly devastating.

16 Over a two-day period, the historic
17 storm dumped nearly 52 inches of snow on the
18 Buffalo area and winds in excess of 70 miles an
19 hour, causing white-out conditions and dangerous
20 windchills.

21 The heavy snow left many
22 people stranded -- some in their cars, others in
23 their homes -- with emergency personnel unable to
24 reach them. Police, fire, ambulance crews and
25 even snowplow drivers simply could not respond by

1 vehicle.

2 Tragically, more than 40 of our
3 fellow Western New Yorkers died. The loss of
4 life would have been much worse if not for the
5 heroic efforts of the members of the Erie County
6 Federation of Snow Mobile Clubs. During the
7 storm and in the days that followed, they used
8 their sleds and other specialized equipment to
9 rescue people and to get essential workers to
10 their jobs, including first responders, doctors,
11 and nurses.

12 Club members used heavy-duty
13 equipment designed to shape snowmobile trails to
14 not only rescue their stranded neighbors but to
15 transfer police officers to their police stations
16 and firefighters and ambulance workers to their
17 fire halls. They also worked with local highway
18 departments to pick up drivers and to get them to
19 their plow trucks as the community began to dig
20 out.

21 We know, of course, unfortunately
22 there will be more snow and more blizzards, and
23 it's very comforting to know that there are
24 people in our community who are willing to help
25 their fellow citizens in a time of need. Western

1 New York will long remember the Christmas
2 Blizzard of 2022 and, more important, the
3 lifesaving actions of these individuals.

4 I thank all of my colleagues for
5 joining me in commending the members of the
6 Erie County Federation of Snow Mobile Clubs for
7 their truly historic deeds.

8 Thank you, Mr. President.

9 ACTING PRESIDENT BAILEY: Thank
10 you, Senator Gallivan.

11 Senator Ryan on the resolution.

12 SENATOR RYAN: Thank you.

13 And I thank Senator Gallivan for
14 bringing this resolution.

15 Every generation or so, Buffalo has
16 a snowstorm that brings us to a standstill. And,
17 you know, down South when there's hurricanes, you
18 hear about the Cajun Coast Guard. Well, our
19 version of the Cajun Coast Guard is snowmobiles
20 and snowmobile associations.

21 And we hope, moving forward, that
22 we're able to more formalize their role in
23 emergency response, but we do thank them for
24 their role in the recent storm. And like all
25 people who help in emergencies, we hope we don't

1 have to call on them again for another
2 generation, but we know if we do call on them,
3 that they will be ready.

4 And once again, thank you,
5 Senator Gallivan, for bringing this important
6 resolution.

7 ACTING PRESIDENT BAILEY: Thank
8 you, Senator Ryan.

9 Senator Kennedy on the resolution.

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

12 First I want to thank our colleague
13 Senator Gallivan for introducing this resolution,
14 and I join him in honoring these outstanding
15 individuals who truly stepped up for our
16 community and Buffalo and throughout Western
17 New York during a time of crisis.

18 As was already mentioned, the
19 blizzard in Western New York that we experienced
20 a few months ago brought treacherous conditions,
21 zero visibility, high winds, 70-mile-per-hour
22 winds, five feet of snow, below-zero temperatures
23 to the tune of minus 20 degrees. It was unlike
24 anything I had ever seen in my entire life. The
25 only storm that it was equated to was the

1 Blizzard of '77 that happened when I was one year
2 old.

3 And due to the rapid deterioration
4 of conditions, countless people became trapped --
5 trapped out in the elements, in their cars, in
6 their homes, at work. And emergency personnel
7 certainly had their hands full during this very
8 difficult time of the storm.

9 But we had citizen heroes that
10 stepped up and became a part of the solution and
11 that lent a helping hand, a brave and courageous
12 helping hand. The Erie County Federation of
13 Snow Mobile Clubs decided to brave these
14 dangerous elements and risk their own safety --
15 their own lives, in many cases -- in order to
16 help rescue stranded drivers and transport
17 essential workers.

18 They gave up their Christmas holiday
19 with their own families and instead truly
20 embodied the City of Good Neighbors during this
21 very difficult time, helping New York State
22 troopers, helping EMS workers, helping
23 firefighters, helping law enforcement officials
24 from throughout Western New York, helping nurses
25 and doctors from Clarence to Sardinia and

1 everywhere in between.

2 When all was said and done, our
3 community lost 47 souls. Just to put that into
4 perspective, recently, the horrific tornados down
5 south, the entire state of Mississippi lost 26.
6 In just two days, Buffalo and Western New York
7 lost 47 people.

8 And so in this moment we remember
9 those individuals that we lost, but we honor
10 those individuals that stepped up to make sure
11 that hundreds of others also didn't perish. And
12 so we're so grateful for those individuals from
13 the Erie County Federation of Snow Mobile Clubs
14 that lent a helping hand.

15 Again, I want to thank
16 Senator Gallivan for bringing this resolution to
17 the floor.

18 And with that, Mr. President, I vote
19 aye.

20 ACTING PRESIDENT BAILEY: Thank
21 you, Senator Kennedy.

22 The resolution was previously
23 adopted on March 28th.

24 Senator Gianaris.

25 SENATOR GIANARIS: Mr. President,

1 at the request of Senator Gallivan, that
2 resolution is open for cosponsorship.

3 ACTING PRESIDENT BAILEY: The
4 resolution is open for cosponsorship. Should you
5 choose not to be a cosponsor, please notify the
6 desk.

7 Senator Gianaris.

8 SENATOR GIANARIS: So,
9 Mr. President, today there are a number of
10 distinguished women in the Capitol being honored
11 by the Women's Legislative Caucus, and some of
12 them have joined us in the gallery today. So
13 we're going to allow some of our members to
14 introduce the honorees who are from their
15 districts.

16 We're going to start with Senator
17 Scarcella-Spanton, then Senator Hinchey, and then
18 Senator Webb, please.

19 ACTING PRESIDENT BAILEY: Thank
20 you, Senator Gianaris.

21 Senator Scarcella-Spanton for the
22 purposes of an introduction.

23 SENATOR SCARCELLA-SPANTON: Thank
24 you, Mr. President.

25 And today we have with us

1 Heather Williams, up in Albany with her family,
2 who is our honoree for our Legislative Women's
3 Caucus celebration this Women's History Month.

4 Heather was born in Trinidad &
5 Tobago in the Caribbean. At a very young age she
6 migrated with her family to the U.S. Virgin
7 Islands, and in 1978 to Staten Island, which
8 became her permanent home.

9 After raising her two sons and
10 losing her eldest son, Taurean, who was a 9/11
11 first responder, they are currently helping to
12 raise their grandsons, D'Nari K. Wells and
13 D'Aurean K. Wells, who are aspiring young models
14 and actors and future musicians, who I believe
15 may -- do we have anybody here too? Hi, there we
16 go.

17 She spends her spare time
18 volunteering, which started with Merrill Lynch,
19 now Bank of America Merrill, a company which
20 encourages employees to give back by
21 volunteering, and presently with several
22 different organizations, but mainly with
23 Fam First Foundation, Inc., her family
24 organization, as an event coordinator.

25 At her organization, her mission is

1 to create a place where families can seek
2 support, be informed, and be educated on matters
3 that affect the structure of today's families.
4 They aim to do this by creating events that
5 bridge the gap between different ethnicities and
6 cultures while supporting families.

7 We are so proud to be able to honor
8 you here today. Thank you for all you do for our
9 community, for Staten Island, and now for
10 New York State.

11 MS. WILLIAMS: Thank you.

12 SENATOR SCARCELLA-SPANTON: Thank
13 you, Heather.

14 ACTING PRESIDENT BAILEY: Thank
15 you, Senator Scarcella-Spanton.

16 Senator Hinchey for the purposes of
17 an introduction.

18 SENATOR HINCHEY: During Women's
19 History Month, members of our Legislative Women's
20 Caucus have the opportunity to honor one
21 outstanding woman from our district who
22 demonstrates exemplary character and leadership
23 in their community.

24 This year it is my privilege to
25 recognize U.S. Air Force veteran Michelle Romalin

1 Deyo for her service to our country and for her
2 tremendous advocacy on behalf of our veteran
3 community in Greene County.

4 Michelle served as a munitions
5 systems specialist in support of Operation Desert
6 Storm, Operation Desert Shield, Operation
7 Southern Watch, and the NATO Operation Deny
8 Flight over Bosnia.

9 After four years of honorable
10 military service, Michelle came back to her
11 community and devoted her life to giving back to
12 her fellow veterans, servicemembers and their
13 families.

14 Michelle is here today as a woman
15 who has already made history, because in the
16 41st District Michelle Deyo is the only woman to
17 lead a county-wide veterans agency, the Greene
18 County Veterans Service Agency. It's a position
19 she has held for over a decade, and I can promise
20 you that our communities are better served
21 because of her leadership.

22 In that time Michelle has assisted
23 thousands of veterans and their families in
24 obtaining VA benefits. Michelle also oversees
25 the Greene County Veterans Transportation

1 Program, to ensure that veterans can safely
2 travel around the county, including to their
3 medical appointments. That program expanded from
4 a single van to full-time daily transportation,
5 and we thank Michelle for her involvement in that
6 significant expansion.

7 In our rural communities it often
8 seems like access to these critical services is
9 dwindling by the day, and because of that we need
10 fighters like Michelle who understand the gaps,
11 see the needs, and take the actions to solve
12 them.

13 Michelle was instrumental in our
14 collective fight to bring the Joseph P. Dwyer
15 Veteran Peer Support Program to Greene County for
16 the first time. As a champion for mental health,
17 Michelle has organized Greene County's first
18 Suicide Awareness and Prevention Day, called the
19 "Greene County Connect to Protect Greene
20 Guardians." In its first year, the event raised
21 over \$7,000 to support local programs for
22 veterans and first responders.

23 My office has been especially proud
24 to partner with the Greene County VSA on
25 Veterans Resource Fairs in Athens, Cairo and

1 Greenville. Together we've been able to
2 facilitate helpful connections between our
3 veterans and the organizations and programs that
4 they might not know exist but that can offer
5 meaningful support.

6 One of the most honorable aspects
7 about Michelle is that she feels a dual calling
8 to champion our first responders, just as she has
9 championed our veterans. If you can believe it,
10 she also serves as an EMT in the Town of
11 Coxsackie Ambulance and as a volunteer
12 firefighter with the Cairo Hose Company, from
13 which she received the Firefighter of the Year
14 Award in 2022.

15 And she's received much of this as a
16 single mom of four boys: Killian, Liam, Kiernan
17 and Ciarán, all of whom have followed in their
18 mom's footsteps and are either serving or have
19 served in our military.

20 Michelle has turned a commitment to
21 service into a career of changing lives and
22 strengthening our communities. This recognition
23 is a perfect opportunity to ensure that
24 Michelle's legacy of service is rightfully
25 acknowledged and celebrated.

1 Thank you, Michelle, and Happy
2 Women's History Month.

3 ACTING PRESIDENT BAILEY: Thank
4 you, Senator Hinchey.

5 Senator Webb for the purposes of an
6 introduction.

7 (Pause.)

8 SENATOR WEBB: Hello. Thank you,
9 Mr. President.

10 I rise enthusiastically to recognize
11 my honoree for our Legislative Women's Caucus
12 Women's History Month, Mary Clark, who literally
13 just got here through a very interesting
14 snowstorm to be here.

15 And so just to share a little bit
16 about Mary Clark, she was born and raised in the
17 Southern Tier. She is a social worker. She is
18 also the former director, Southern Tier regional
19 director for Citizen Action of New York.

20 She is a tireless and unapologetic
21 advocate for social, racial, environmental
22 justice, healthcare, education. And she has been
23 and still is integral in my life, personally and
24 professionally. She is the type of person that I
25 wanted to lift up because she's an example of one

1 of those thankless heroes that will be behind
2 the scenes pushing for everyone to succeed and
3 never looks for gratitude.

4 And that is the type of leader that
5 she is every single day -- she is retired now,
6 but still working. But she is one of the main
7 reasons why I'm here. And so it is my deep honor
8 and I'm very excited to recognize her. She is
9 also the type of person that would literally give
10 you the shirt off of her back to make sure that
11 you're okay.

12 And so it is for all these
13 reasons -- and many more -- I'm very happy to
14 recognize her and the great work that she still
15 does to this day, not just for the residents in
16 the Southern Tier but for all of us across this
17 great State of New York.

18 Thank you.

19 ACTING PRESIDENT BAILEY: Thank
20 you, Senator Webb.

21 To our guests, incredible honorees,
22 I welcome and congratulate you on behalf of the
23 New York State Senate. We extend to you all of
24 the privileges and courtesies of this house.

25 Please rise and be recognized.

1 (Extended standing ovation.)

2 ACTING PRESIDENT BAILEY: Senator
3 Gianaris.

4 SENATOR GIANARIS: Mr. President,
5 we are going to call an immediate meeting of the
6 Finance Committee as we continue to do our work.

7 So please call a meeting of the
8 Finance Committee in Room 332.

9 ACTING PRESIDENT BAILEY:
10 Certainly. There will be an immediate meeting of
11 the Finance Committee in Room 332.

12 The Secretary will read.

13 SENATOR GIANARIS: And can we now
14 take up the calendar.

15 (Laughter.)

16 ACTING PRESIDENT BAILEY: Sorry.

17 The Secretary will read.

18 THE SECRETARY: Calendar Number
19 236, Senate Print 2711, by Senator Parker, an act
20 to amend the Public Service Law.

21 SENATOR GIANARIS: Lay it aside for
22 the day.

23 ACTING PRESIDENT BAILEY: Lay the
24 bill aside for the day.

25 THE SECRETARY: Calendar Number

1 313, Senate Print 2994A, by Senator Harckham, an
2 act to amend the Environmental Conservation Law.

3 ACTING PRESIDENT BAILEY: Read the
4 last section.

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

7 ACTING PRESIDENT BAILEY: Call the
8 roll.

9 (The Secretary called the roll.)

10 ACTING PRESIDENT BAILEY: Announce
11 the results.

12 THE SECRETARY: In relation to
13 Calendar 313, those Senators voting in the
14 negative are Senators Ashby, Borrello, Gallivan,
15 Griffo, Helming, Lanza, Martins, Mattera, Murray,
16 Oberacker, O'Mara, Ortt, Stec, Tedisco, Walczyk,
17 Weber and Weik.

18 Ayes, 44. Nays, 17.

19 ACTING PRESIDENT BAILEY: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 339, Senate Print 3609B, by Senator Webb, an act
23 to amend the Public Health Law.

24 ACTING PRESIDENT BAILEY: Read the
25 last section.

1 THE SECRETARY: Section 2. This
2 act shall take effect on the same date and in the
3 same manner as Chapter 137 of the Laws of 2022.

4 ACTING PRESIDENT BAILEY: Call the
5 roll.

6 (The Secretary called the roll.)

7 ACTING PRESIDENT BAILEY: Announce
8 the results.

9 THE SECRETARY: In relation to
10 Calendar 339, those Senators voting in the
11 negative are Senators Ashby, Borrello,
12 Canzoneri-Fitzpatrick, Felder, Gallivan, Griffo,
13 Helming, Lanza, Martinez, Martins, Mattera,
14 Murray, Oberacker, O'Mara, Ortt, Palumbo, Rhoads,
15 Rolison, Stec, Tedisco, Walczyk, Weber and Weik.

16 Ayes, 38. Nays, 23.

17 ACTING PRESIDENT BAILEY: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 346, Senate Print 2330, by Senator Mayer, an act
21 to amend the Insurance Law.

22 ACTING PRESIDENT BAILEY: Read the
23 last section.

24 THE SECRETARY: Section 5. This
25 act shall take effect on the 180th day after it

1 shall have become a law.

2 ACTING PRESIDENT BAILEY: Call the
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT BAILEY: Announce
6 the results.

7 THE SECRETARY: In relation to
8 Calendar 346, those Senators voting in the
9 negative are Senators Borrello, Gallivan, Griffio,
10 Helming, Oberacker, O'Mara, Ortt, Palumbo,
11 Rhoads, Stec, Tedisco, Walczyk, Weber and Weik.

12 Ayes, 47. Nays, 14.

13 ACTING PRESIDENT BAILEY: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 348, Senate Print 2731, by Senator Sanders, an
17 act to amend the Insurance Law.

18 ACTING PRESIDENT BAILEY: Read the
19 last section.

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

22 ACTING PRESIDENT BAILEY: Call the
23 roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT BAILEY: Announce

1 the results.

2 THE SECRETARY: Ayes, 61.

3 ACTING PRESIDENT BAILEY: The bill
4 is passed.

5 THE SECRETARY: Calendar Number
6 395, Senate Print 1938, by Senator Skoufis, an
7 act to amend the Real Property Tax Law.

8 ACTING PRESIDENT BAILEY: Read the
9 last section.

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

12 ACTING PRESIDENT BAILEY: Call the
13 roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT BAILEY: Announce
16 the results.

17 THE SECRETARY: Ayes, 61.

18 ACTING PRESIDENT BAILEY: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 478, Senate Print 3592, by Senator Breslin, an
22 act to amend the Insurance Law.

23 ACTING PRESIDENT BAILEY: Read the
24 last section.

25 THE SECRETARY: Section 2. This

1 act shall take effect immediately.

2 ACTING PRESIDENT BAILEY: Call the
3 roll.

4 (The Secretary called the roll.)

5 ACTING PRESIDENT BAILEY: Announce
6 the results.

7 THE SECRETARY: In relation to
8 Calendar Number 478, voting in the negative:
9 Senator Brisport.

10 Ayes, 60. Nays, 1.

11 ACTING PRESIDENT BAILEY: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 497, Senate Print 3004, by Senator Cleare, an act
15 to amend the Elder Law.

16 ACTING PRESIDENT BAILEY: Read the
17 last section.

18 THE SECRETARY: Section 2. 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: Senator
24 Cleare to explain her vote.

25 SENATOR CLEARE: Thank you,

1 Mr. President.

2 The fastest-growing segment of our
3 population here in New York are our seniors, and
4 they hold a greater share of our workforce than
5 ever before. Recognizing this principle, this
6 bill creates the Office of Older Adult Workforce
7 Development within the State Office for the
8 Aging, which will provide an important resource
9 for our state's growing senior workforce
10 population and furthers the shared goal of
11 becoming a truly age-friendly state.

12 This bill will provide essential
13 data through a centralized website with the aim
14 of addressing the needs of seniors in the
15 workforce, including job placement and support
16 and career building and development.

17 This bill also empowers older
18 New Yorkers by providing information and remedies
19 for seniors facing ageism discrimination on the
20 workforce. Enactment of this legislation will
21 aid millions of seniors looking to continue their
22 contributions to the workforce or embark on a
23 second career later in their lives.

24 I want to thank all my senior
25 constituents that helped lobby for this bill. I

1 proudly vote aye and ask all my colleagues to do
2 the same.

3 Thank you.

4 ACTING PRESIDENT BAILEY: Senator
5 Cleare to be recorded in the affirmative.

6 Announce the results.

7 THE SECRETARY: Ayes, 62.

8 ACTING PRESIDENT BAILEY: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 500, Senate Print 3320, by Senator Sepúlveda, an
12 act to amend the Real Property Law.

13 ACTING PRESIDENT BAILEY: Read the
14 last section.

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

17 ACTING PRESIDENT BAILEY: Call the
18 roll.

19 (The Secretary called the roll.)

20 ACTING PRESIDENT BAILEY: Senator
21 Sepúlveda to explain his vote.

22 SENATOR SEPÚLVEDA: Thank you for
23 allowing me to explain my vote.

24 The genesis of this bill is
25 discussions with clients in my first life, which

1 is as an attorney, that complained quite often
2 about the treatment they received from
3 condominium boards -- when they get hit with
4 fees, a bidding process that they have no
5 awareness of. When they want things posted or
6 information, many times the condominium boards
7 resist and they're left without information.

8 So this process for me began a few
9 years ago. I'm glad that it's here today for a
10 vote. I encourage all my colleagues, especially
11 those that live in condominiums, to vote in the
12 affirmative, because transparency is critically
13 important to condominium owners, and that is the
14 premise of this bill.

15 It will limit some of the contracts
16 that condominium boards can enter into without
17 informing the condo owners, and it will also
18 require a much higher level of transparency.

19 So I proudly vote in the
20 affirmative.

21 ACTING PRESIDENT BAILEY: Senator
22 Sepúlveda to be recorded in the affirmative.

23 Announce the results.

24 THE SECRETARY: Ayes, 62.

25 ACTING PRESIDENT BAILEY: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 521, Senate Print 2776, by Senator Rivera, an act
4 to amend the Public Health Law.

5 ACTING PRESIDENT BAILEY: Read the
6 last section.

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

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: In relation to
15 Calendar Number 521, voting in the negative:
16 Senator Rhoads.

17 Ayes, 60. Nays, 1.

18 ACTING PRESIDENT BAILEY: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 523, Senate Print 2995, by Senator Harckham, an
22 act to amend the Public Health Law.

23 ACTING PRESIDENT BAILEY: Read the
24 last section.

25 THE SECRETARY: Section 3. This

1 act shall take effect on the 120th day after it
2 shall have become a law.

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: Ayes, 62.

9 ACTING PRESIDENT BAILEY: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 543, Assembly Print Number 3777, by
13 Assemblymember Paulin, an act to amend the
14 State Finance Law.

15 ACTING PRESIDENT BAILEY: Read the
16 last section.

17 THE SECRETARY: Section 2. This
18 act shall take effect on the same date and in the
19 same manner as Section 9 of Chapter 683 of the
20 Laws of 2022.

21 ACTING PRESIDENT BAILEY: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT BAILEY: Announce
25 the results.

1 THE SECRETARY: Ayes, 62.

2 ACTING PRESIDENT BAILEY: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 556, Senate Print 4711, by Senator Martinez, an
6 act to amend the Volunteer Firefighters' Benefit
7 Law.

8 ACTING PRESIDENT BAILEY: Read the
9 last section.

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

12 ACTING PRESIDENT BAILEY: Call the
13 roll.

14 (The Secretary called the roll.)

15 ACTING PRESIDENT BAILEY: Announce
16 the results.

17 THE SECRETARY: Ayes, 62.

18 ACTING PRESIDENT BAILEY: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 572, Senate Print 6061, by Senator Hoylman-Sigal,
22 an act to amend the Judiciary Law.

23 SENATOR LANZA: Lay it aside.

24 ACTING PRESIDENT BAILEY: Lay the
25 bill aside.

1 Senator Gianaris, that completes the
2 reading of today's calendar.

3 SENATOR GIANARIS: Can we move to
4 the reading of the controversial calendar,
5 please.

6 ACTING PRESIDENT BAILEY: The
7 Secretary will ring the bell.

8 The Secretary will read.

9 THE SECRETARY: Calendar Number
10 572, Senate Print 6061, by Senator Hoylman-Sigal,
11 an act to amend the Judiciary Law.

12 ACTING PRESIDENT BAILEY: Senator
13 Palumbo, why do you rise?

14 SENATOR PALUMBO: Thank you,
15 Mr. President. Would the sponsor yield for a few
16 questions, please.

17 ACTING PRESIDENT BAILEY: Will the
18 sponsor yield?

19 SENATOR HOYLMAN-SIGAL: Yes.

20 ACTING PRESIDENT BAILEY: The
21 sponsor yields.

22 SENATOR PALUMBO: Thank you,
23 Chairman. Good afternoon. I just have a few
24 questions with regard to this bill.

25 And initially this kind of came down

1 the pike relatively quickly in the past week or
2 so. So can you tell me how this bill came about
3 and why we have to vote on it today?

4 SENATOR HOYLMAN-SIGAL: Thank you.
5 Through you, Mr. President.

6 This bill came to the Senate by the
7 Governor. It's a gubernatorial program bill.

8 SENATOR PALUMBO: Will the sponsor
9 continue to yield?

10 ACTING PRESIDENT BAILEY: Will the
11 sponsor yield?

12 SENATOR HOYLMAN-SIGAL: Yes.

13 ACTING PRESIDENT BAILEY: The
14 sponsor yields.

15 SENATOR PALUMBO: Thank you,
16 Chairman.

17 And did the Governor explain why it
18 was necessary that we do this? I understand it
19 came out as a program bill. But it seems like
20 this may constrain the Governor to some extent,
21 or provide her with kind of a shorter list -- and
22 we'll get into that in a little bit -- in the
23 event that she were to exercise this authority.

24 SENATOR HOYLMAN-SIGAL: Well, we
25 have the bill before us. And I can only infer

1 that the Governor sees this as expanding her
2 options in terms of appointing a new chief judge.

3 Just to say that this bill would
4 only take effect when an associate judge is
5 confirmed to be a chief judge, which is a very
6 rare occurrence. It doesn't compel her to choose
7 an associate judge from the same list as the
8 chief judge, but it does give the Governor that
9 option.

10 The last time an associate judge
11 became chief judge was before Senator Gonzalez
12 was even born -- 1993.

13 SENATOR PALUMBO: Thank you,
14 Chairman. Will you continue to yield for another
15 question, please.

16 ACTING PRESIDENT BAILEY: Will the
17 sponsor yield?

18 SENATOR HOYLMAN-SIGAL: Yes.

19 ACTING PRESIDENT BAILEY: The
20 sponsor yields.

21 SENATOR PALUMBO: Thank you.

22 And just so it's clear for our body,
23 because I think there's some nuance for the
24 nonlawyers -- or even for many of the lawyers.
25 There are associate judges, of course, and then

1 there's the chief judge. Could you explain to us
2 what the chief judge does with respect to their
3 duties, relative to just an associate judge on
4 the Court of Appeals?

5 SENATOR HOYLMAN-SIGAL: The chief
6 judge is not just the head of the Court of
7 Appeals -- and essentially will control the court
8 in determining who writes opinions -- but also is
9 the CEO of the entire New York court system.

10 So the position is incredibly
11 important. And to have a vacancy at either the
12 chief judge level or the associate judge level is
13 cause for concern.

14 Since Chief Judge DiFiore, the
15 former chief judge, resigned -- which was seven
16 months ago -- the court has decided over 50 cases
17 and many more, presumably, motions and
18 applications. It's really impossible to know how
19 many cases have been delayed or were passed over
20 because the court is waiting for that seventh
21 judge. And these issues obviously have
22 significant impacts on litigants and courts
23 statewide, who need to know how to interpret the
24 laws that we write in this chamber.

25 SENATOR PALUMBO: Will the sponsor

1 yield for another question, please.

2 (Crowd outside shouting "No.")

3 ACTING PRESIDENT BAILEY: Will the
4 sponsor yield?

5 SENATOR HOYLMAN-SIGAL: Yes. That
6 wasn't me saying no.

7 (Laughter.)

8 ACTING PRESIDENT BAILEY: The
9 sponsor yields.

10 SENATOR PALUMBO: That was -- I
11 would have said that was very impressive, if it
12 was. It would have been outstanding.

13 SENATOR HOYLMAN-SIGAL: Amen
14 chorus.

15 SENATOR PALUMBO: Yes, yes, yes.
16 Very Caesar-like, right? You can get a yes or no
17 with a --

18 So in that regard I think we can
19 agree that the chief judge is almost a
20 complete -- not a completely different position,
21 but they have a tremendous amount of additional
22 duties relative to associate judges, is that fair
23 to say?

24 SENATOR HOYLMAN-SIGAL: Yes.

25 (Crowd outside shouting "No.")

1 (Laughter.)

2 SENATOR PALUMBO: Thank you. Would
3 you continue -- it's ama -- are they watching?
4 They might be watching.

5 Would you yield for another
6 question?

7 SENATOR HOYLMAN-SIGAL:
8 (Inaudible.)

9 (Laughter.)

10 SENATOR PALUMBO: Why don't they do
11 it when I'm speaking?

12 Would you yield for another
13 question, please, Chairman?

14 ACTING PRESIDENT BAILEY: Will the
15 sponsor yield?

16 SENATOR HOYLMAN-SIGAL: Yes.

17 ACTING PRESIDENT BAILEY: The
18 sponsor yields.

19 SENATOR PALUMBO: Thank you.

20 So in that regard, now, we have a
21 list before us in our committee, the Judiciary
22 Committee, that has seven potential nominees.
23 And the Constitution prescribes how that list
24 actually is made.

25 And could you also explain to us how

1 someone gets on that list? Is it -- are they
2 chosen out of the sky, or do judges, sitting
3 judges, or lawyers or people who are otherwise
4 qualified -- is there an application process when
5 the list is -- or when there is a request for a
6 list and there's a vacancy on the Court of
7 Appeals?

8 SENATOR HOYLMAN-SIGAL: Yes. There
9 is an application process with a Commission on
10 Judicial Nomination comprised of various
11 appointees from the Governor, the Court of
12 Appeals, our own chamber, your leader, the
13 Assembly and the Assembly Minority Leader.

14 SENATOR PALUMBO: Thank you,
15 Chairman. Would you yield for another question,
16 please.

17 ACTING PRESIDENT BAILEY: Will the
18 sponsor yield for another question?

19 SENATOR HOYLMAN-SIGAL: Yes.

20 ACTING PRESIDENT BAILEY: The
21 sponsor yields.

22 SENATOR PALUMBO: So in that
23 regard, this commission creates the list and, as
24 prescribed in the Constitution, the Governor has
25 to choose -- has to choose from that list in

1 order to obviously nominate someone. And then
2 they go through the process through the Judiciary
3 Committee and then to the floor. Is that the
4 process?

5 SENATOR HOYLMAN-SIGAL: Yes.

6 SENATOR PALUMBO: Would you yield
7 for another question, please.

8 SENATOR HOYLMAN-SIGAL: Yes.

9 ACTING PRESIDENT BAILEY: Will the
10 sponsor yield?

11 The sponsor yields.

12 SENATOR PALUMBO: So in that
13 regard, if this were to become law, the Governor
14 would then -- and just so we can explain the
15 mechanics to our colleagues, there are currently
16 three associate judges on this list of seven.
17 Right? Judge Cannataro, Judge Troutman,
18 Judge Wilson.

19 If the Governor were to select one
20 of those three for chief judge and they were
21 ultimately confirmed, that would then create --
22 it's still six, there would still be a vacancy
23 now as far as the associate judges are concerned.
24 Is that correct?

25 SENATOR HOYLMAN-SIGAL: Yes.

1 SENATOR PALUMBO: Would you yield
2 for another question, please.

3 SENATOR HOYLMAN-SIGAL: Yes.

4 ACTING PRESIDENT BAILEY: Just as a
5 reminder, I just -- I want to make sure that when
6 you're asking if the sponsor yields, if we can
7 not have conversations. Will members please make
8 the request --

9 SENATOR PALUMBO: Sure,
10 Mr. President, of course.

11 ACTING PRESIDENT BAILEY: Thank
12 you.

13 SENATOR PALUMBO: All my questions
14 are through you. It's --

15 ACTING PRESIDENT BAILEY: Thank
16 you.

17 SENATOR PALUMBO: -- just habit to
18 look at Chairman Hoylman. But absolutely,
19 through you, Mr. President.

20 ACTING PRESIDENT BAILEY: Just --
21 as we prepare for budget debate, I just want to
22 make sure we're in the right state of mind,
23 Senator Palumbo.

24 Senator Hoylman-Sigal, do you yield?

25 SENATOR HOYLMAN-SIGAL: Through

1 you, yes.

2 ACTING PRESIDENT BAILEY: The
3 sponsor yields.

4 SENATOR PALUMBO: Thank you,
5 Chairman.

6 So with that in mind, in the
7 hypothetical situation, Mr. President, that the
8 Governor does choose one of the sitting judges --
9 in fact, for an associate judge position the
10 other two would be precluded from being
11 considered, of course, because they're already
12 sitting judges on the Court of Appeals, is that
13 fair to say?

14 SENATOR HOYLMAN-SIGAL: By
15 definition, yes.

16 SENATOR PALUMBO: Okay, certainly.

17 And through you, Mr. President,
18 would the sponsor yield for another question.

19 ACTING PRESIDENT BAILEY: Will the
20 sponsor yield?

21 SENATOR HOYLMAN-SIGAL: Yes.

22 ACTING PRESIDENT BAILEY: The
23 sponsor yields.

24 SENATOR PALUMBO: Thank you.

25 So practically speaking, the

1 Governor would have seven nominees to choose from
2 now. In the event one of the three sitting
3 judges are choose -- actually, the list is only
4 four, because there are four non-judges on the
5 list, is that fair to say?

6 SENATOR HOYLMAN-SIGAL: Yes, it's
7 true. I would -- through you, Mr. President, I
8 would point out that the Governor has the option
9 to request a new list. This does not preclude
10 her requesting a new list from the Commission on
11 Judicial Nomination. This gives her an option.

12 SENATOR PALUMBO: Thank you,
13 Chairman.

14 Will the sponsor yield for another
15 question, please.

16 ACTING PRESIDENT BAILEY: Will the
17 sponsor yield?

18 SENATOR HOYLMAN-SIGAL: Yes.

19 ACTING PRESIDENT BAILEY: The
20 sponsor yields.

21 SENATOR PALUMBO: So then what
22 we're saying is the Governor then would not
23 only -- she wouldn't have a list of seven, she
24 could potentially have a list of either four or
25 technically 11, if she doesn't choose to select

1 one of the remaining four. Because we then would
2 get a new list, at the Governor's discretion, of
3 seven more. Is that accurate?

4 SENATOR HOYLMAN-SIGAL: Through
5 you, Mr. President, as we've seen with the
6 commission's selections for the list, sometimes
7 those individuals are on two different lists. So
8 it's possible that the current individuals who
9 are on this current list might be on the new list
10 if the Governor so chooses, if and when we pass
11 this legislation.

12 So I'm not sure it would be 11, but
13 it could be.

14 SENATOR PALUMBO: Okay. Through
15 you, Mr. President, will the sponsor yield for
16 another question.

17 ACTING PRESIDENT BAILEY: Will the
18 sponsor yield?

19 SENATOR HOYLMAN-SIGAL: Yes.

20 ACTING PRESIDENT BAILEY: The
21 sponsor yields.

22 SENATOR PALUMBO: So as far as
23 the -- either the current list or new list or
24 wherever it works out, that is an exclusive list,
25 correct? Because the commission creates the list

1 and the Governor is required to only select from
2 individuals on that list. So it precludes anyone
3 else from being considered for the chief judge or
4 any subsequent associate judge position. Is that
5 correct?

6 The judge is -- the Governor is only
7 allowed -- I know it's almost rhetorical, because
8 I think we know the answer. The Governor can
9 only -- may only pick from the select list that
10 the commission produces, correct?

11 SENATOR HOYLMAN-SIGAL: Through
12 you, Mr. President. Depending on whether the
13 Governor chooses the associate from the current
14 list, if and when we pass this legislation and
15 it's signed into law, or she asks for a new list.

16 SENATOR PALUMBO: Through you,
17 Mr. President, would the sponsor yield for
18 another question.

19 ACTING PRESIDENT BAILEY: Will the
20 sponsor continue to yield?

21 SENATOR HOYLMAN-SIGAL: Yes.

22 ACTING PRESIDENT BAILEY: The
23 sponsor yields.

24 SENATOR PALUMBO: So, Senator --
25 and I guess what it boils down to, and the rub

1 that -- that I'd like to maybe have you
2 reconcile, if you could, is when this vacancy
3 was -- when the list -- when there was a request
4 for an application process, there are certain
5 judges who may not have significant
6 administrative duties but are absolutely
7 qualified to be associate judges.

8 So I have a concern that -- this was
9 a chief judge list. This was not an associate
10 judge list. So can you reconcile for me whether
11 or not this list was for either associate
12 judge -- the application process was for either
13 chief judge or associate judge?

14 Because we do have some presiding
15 judges of the appellate divisions who have
16 applied. We actually had one previously from the
17 Second Department, Justice LaSalle. We know how
18 that went.

19 But there are judges who already
20 have significant administrative, but they may not
21 be a perfect fit for chief judge but they would
22 be a better fit for associate judge. Can you
23 reconcile that concern, please?

24 SENATOR HOYLMAN-SIGAL: Through
25 you, Mr. President. First, I would argue that if

1 an individual is on this list for chief judge,
2 then they certainly presumably are qualified to
3 be an associate judge on the Court of Appeals.

4 But secondly, if in the Governor's
5 discretion she agrees with you, she can always
6 ask for a new list to fill that associate judge
7 position. Again, we're just creating a pathway
8 for more options.

9 SENATOR PALUMBO: Thank you,
10 Chairman.

11 Through you, Mr. President, will the
12 sponsor yield for another question, please.

13 ACTING PRESIDENT BAILEY: Will the
14 sponsor yield?

15 SENATOR HOYLMAN-SIGAL: Yes.

16 ACTING PRESIDENT BAILEY: The
17 sponsor yields.

18 SENATOR PALUMBO: Thank you.

19 And Chairman, since this is an
20 exclusive list, and we did have quite an
21 interesting time with the previous nominee, with
22 Justice LaSalle, who would have been an historic
23 appointment to the Court of Appeals, are there
24 any Latino nominees on the current list?

25 SENATOR HOYLMAN-SIGAL: Through

1 you, Mr. President, not that I am aware, no.

2 SENATOR PALUMBO: Thank you,
3 Chairman. Would you yield for one more question,
4 please.

5 ACTING PRESIDENT BAILEY: Will the
6 sponsor yield?

7 SENATOR HOYLMAN-SIGAL: Yes.

8 ACTING PRESIDENT BAILEY: The
9 sponsor yields.

10 SENATOR PALUMBO: In that same
11 regard, are there any nominees of Asian descent
12 on this current list?

13 SENATOR HOYLMAN-SIGAL: Through
14 you, Mr. President, not that I am aware.

15 SENATOR PALUMBO: Thank you,
16 Chairman.

17 On the bill, please, Mr. President.

18 ACTING PRESIDENT BAILEY: Senator
19 Palumbo on the bill.

20 SENATOR PALUMBO: So,
21 Mr. President, I do appreciate the fact that this
22 might possibly streamline the process, because we
23 have been operating with six judges -- but we've
24 survived.

25 And this is something that is now

1 trying to statutorily prescribe some very abrupt
2 changes, during a very difficult budget
3 negotiation process, but abrupt changes to our
4 Constitution.

5 We just saw this movie, and it
6 didn't end well, that we're manipulating the
7 process for what I think are reasons that are
8 untoward. That this is some sort of a deal that
9 has to do with possibly picking two judges from
10 one list.

11 But let's think about -- let's slow
12 down and actually try to follow the Constitution
13 one more time. It prescribes specifically --
14 I'll read the highlights. I need my glasses for
15 this, I'm getting old -- "The Governor shall
16 appoint, from among those recommended by the
17 Judicial Nominating Commission, a person to fill
18 the office of chief judge or associate judge
19 whenever a vacancy occurs in the Court of
20 Appeals."

21 We don't have two vacancies right
22 now. We have one. And if by chance we get
23 another one, that occurs upon confirmation of a
24 sitting associate judge to now become the chief
25 judge. This list was created long before that

1 confirmation process, because that's going to
2 happen sometime in the future.

3 So I understand this may have been a
4 program bill. I don't like it. I don't like the
5 way it smells. And quite frankly, it is
6 100 percent unconstitutional.

7 This is an exclusive list. The
8 Governor's prescribed to pick from seven, and now
9 she'll be reduced down to four in the event she
10 picks a sitting judge, or can go with a whole
11 additional seven. So now it's a pool of 11
12 instead of a pool of seven as the Constitution
13 dictates.

14 So, Mr. President, I am very
15 concerned about the reasons for this bill coming
16 to the floor at this point. But I will be voting
17 no, and I urge my colleagues to do the same.

18 Thank you.

19 ACTING PRESIDENT BAILEY: Thank
20 you, Senator Palumbo.

21 Are there any other Senators wishing
22 to be heard?

23 Seeing and hearing none, debate is
24 closed.

25 Senator Gianaris.

1 SENATOR GIANARIS: Thank you,
2 Mr. President. Can we return that to the
3 noncontroversial calendar, please.

4 ACTING PRESIDENT BAILEY: Upon
5 consent, we will return this bill to the
6 noncontroversial calendar.

7 Read the last section.

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

10 ACTING PRESIDENT BAILEY: Call the
11 roll.

12 (The Secretary called the roll.)

13 ACTING PRESIDENT BAILEY: Senator
14 Rhoads to explain his vote.

15 SENATOR RHOADS: Thank you,
16 Mr. President.

17 I want to thank Senator Palumbo for
18 his -- for his questioning. And he makes an
19 excellent point, in that this bill, if it is
20 adopted, is clearly unconstitutional, as the
21 process by which this is supposed to take place
22 is spelled out in the Constitution. We are now
23 changing that process.

24 But there is one additional point
25 that Senator Palumbo raised that I wish to

1 highlight, which is the fact that as an
2 applicant, if you wish to be a member of the
3 Court of Appeals either as an associate or as
4 chief judge, you may very well make the decision
5 as a sitting justice that you do not wish to be
6 the chief administrative judge of the courts,
7 that you may not want to apply to be chief
8 justice.

9 If the same list is used for chief
10 justice and associate justice, you have now shut
11 out a potential pool of applicants who would be
12 qualified to serve as an associate justice who,
13 because the list was for chief justice, simply
14 did not apply.

15 And so you are limiting the choices
16 that are available to the Governor -- in doing
17 so, limiting the potential pool of applicants to
18 be an associate justice and disqualifying or
19 excluding candidates who would otherwise be
20 qualified and would have applied.

21 So I will be voting in the negative.

22 ACTING PRESIDENT BAILEY: Senator
23 Rhoads to be recorded in the negative.

24 Announce the results.

25 THE SECRETARY: In relation to

1 Calendar 572, those Senators voting in the
2 negative are Senators Ashby, Borrello,
3 Canzoneri-Fitzpatrick, Gallivan, Griffo, Helming,
4 Lanza, Liu, Martinez, Martins, Mattera, Murray,
5 Oberacker, O'Mara, Ortt, Palumbo, Rhoads,
6 Rolison, Stec, Tedisco, Walczyk, Weber and Weik.

7 Ayes, 39. Nays, 23.

8 ACTING PRESIDENT BAILEY: The bill
9 is passed.

10 Senator Gianaris, that completes the
11 reading of today's noncontroversial calendar.

12 SENATOR GIANARIS: Mr. President,
13 there's a report of the Finance Committee at the
14 desk. Can we take that up.

15 ACTING PRESIDENT BAILEY: The
16 Secretary will read.

17 THE SECRETARY: Senator Krueger,
18 from the Committee on Finance, reports the
19 following bill:

20 Senate Print 4002, Senate Budget
21 Bill, an act making appropriations for the legal
22 requirements of the state debt service.

23 SENATOR GIANARIS: Move to accept
24 the report of the Finance Committee.

25 ACTING PRESIDENT BAILEY: All those

1 in favor of accepting the report of the Finance
2 Committee signify by saying aye.

3 (Response of "Aye.")

4 ACTING PRESIDENT BAILEY: Opposed,
5 nay.

6 (No response.)

7 ACTING PRESIDENT BAILEY: The
8 report of the Finance Committee is accepted.

9 Senator Gianaris.

10 SENATOR GIANARIS: Is there any
11 further business at the desk?

12 ACTING PRESIDENT BAILEY: There is
13 no further business at the desk.

14 SENATOR GIANARIS: Move to adjourn
15 until Friday, March 31, at 11:00 a.m.

16 ACTING PRESIDENT BAILEY: On
17 motion, the Senate stands adjourned until Friday,
18 March 31st, at 11:00 a.m.

19 Let's go, Mets.

20 (Whereupon, at 12:23 p.m., the
21 Senate adjourned.)

22

23

24

25