NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 21, 2006

3:05 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT LITTLE: The Senate will come to order.

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

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

ACTING PRESIDENT LITTLE: In the absence of clergy, may we bow our heads in a moment of silence.

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

ACTING PRESIDENT LITTLE: Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 20, the Senate met pursuant to adjournment. The Journal of Sunday, March 19, was read and approved. On motion, Senate adjourned.

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

THE PRESIDENT: Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President.

On page number 6, on behalf of Senator Skelos, I offer the following amendments to Calendar Number 28, Senate Print Number 5404, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar at this time.

THE PRESIDENT: All in favor of adopting the Resolution Calendar please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a substitution, if we could make it at this time.

THE PRESIDENT: We have two substitutions, Senator Skelos.

The Secretary will read.

THE SECRETARY: On page 14, Senator Robach moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 9847 and substitute it for the identical Senate Bill Number 6532, Third Reading Calendar 250.

And on page 24, Senator Skelos moves to discharge, from the Committee on Local Government, Assembly Bill Number 9854 and substitute it for the identical Senate Bill Number 6817A, Third Reading Calendar 425.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could go to the noncontroversial reading of the calendar.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 60, by Senator Balboni, Senate Print 5605, an act to amend the Penal Law and others, in relation to acts of terrorism.

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 250, substituted earlier today by Member of the Assembly Abbate, Assembly Print Number 9847, an act to amend the Civil Service Law, in relation to providing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 316, by Senator Skelos, Senate Print 1150B, an act to amend the Penal Law, in relation to concurrent and consecutive terms of imprisonment.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 324, by Senator Robach, Senate Print 3177, an act to amend Civil Service Law, in relation to improper employer practices.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 364, by Senator Maziarz, Senate Print 6784, an act to amend the Labor Law and others, in relation to prohibiting municipalities.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 395, by Senator Morahan, Senate Print 6763A, an act to amend the Civil Service Law, in relation to duration.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 402, by Senator Rath, Senate Print 1512A, an act to amend the Social Services Law, in relation to considering.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 415, by Senator Balboni, Senate Print 5641, an act to amend the General Municipal Law, in relation to ensuring.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 425, substituted earlier today by Member of the Assembly DiNapoli, Assembly Print Number 9854A, an act to amend the Real Property Tax Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 441, by Senator DeFrancisco, Senate Print

6729, an act to amend the Estates, Powers and Trusts Law, in relation to distribution.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the first of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 447, by Senator Volker, Senate Print 874, an act to amend the Civil Practice Law and Rules, in relation to service.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 461, by Senator Balboni, Senate Print 177, an act to amend the New York State Defense Emergency Act, in relation to persons eligible.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 462, by Senator Balboni, Senate Print 179A, an act to amend the Executive Law, in relation to local disaster preparedness plans.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the first of June.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 463, by Senator Balboni, Senate Print 180, an act to amend the Penal Law, in relation to nuclear-powered electric generating facilities.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 464, by Senator Balboni, Senate Print 184, an act to amend the Executive Law, in relation to requiring.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 465, by Senator Rath --

SENATOR SCHNEIDERMAN: Lay it aside.

THE PRESIDENT: The bill is laid aside.

THE SECRETARY: Calendar Number 467, by Senator Balboni, Senate Print 6912, an act to amend the Executive Law, in relation to the powers and duties.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

468, by Senator Balboni, Senate Print 6913, an act to amend the Executive Law, in relation to ensuring that state and local disaster preparedness plans address.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 473, by Senator Trunzo, Senate Print 6845, an act to amend the Retirement and Social Security Law and the General Municipal Law.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 477, by Senator Winner, Senate Print 6449, an act to amend the Highway Law, in relation to designating.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Madam President, if we could go to the controversial reading of the calendar.

THE PRESIDENT: The Secretary will ring the bell, and the members should return to their seats so that we can begin the controversial calendar.

Senator Farley.

SENATOR FARLEY: Thank you, Madam

President.

Resolution 4032 is asking the Governor to proclaim April 2nd through the 8th as Library Week. And a lot of members have asked me to go on that resolution. We didn't have time. So I'd offer that up to the entire body. Anybody that does not want to go on it, please notify the desk.

That's Resolution 4032. Thank you.

THE PRESIDENT: Senator Skelos, any objection to opening up the resolution to all the members?

SENATOR SKELOS: If anybody wishes not to sponsor it, they should notify you.

THE PRESIDENT: Any member who does not wish to cosponsor Resolution 4032 please notify the desk.

The Secretary will read.

THE SECRETARY: Calendar Number 60, by Senator Balboni, Senate Print 5605, an act to amend the Penal Law and others, in relation to acts of terrorism.

SENATOR SCHNEIDERMAN: Brief explanation.

THE PRESIDENT: Senator Balboni, a nondescript explanation has been requested.

SENATOR BALBONI: Madam President, I notice today that there are many children in the chamber. And I'd like to just point out that what we have just done today is we've passed a series of bills that have related to emergency preparedness and terrorism.

This bill before us talks specifically about the third stage of preparedness and prosecution of terrorist acts in the State of New York. We had Terror 1, that we did right after 9/11. We did Terrorism 2 in August of 2004. And today marks hopefully the third piece of the trilogy of preparing the state for an act of terrorism, in order to prevent it and respond effectively.

The provisions of this bill have been analyzed previously, but just to kind of -- as one of our great colleagues, Senator Goodman, used to say, a quick helicopter ride over the terrain.

This has a new amendment for the

Criminal Procedure Law Act for the crime of agriterrorism, cyberterrorism. It talks about the ability to prosecute terrorists who want to structure or want to money launder to facilitate their deeds. And it also sets up various criminal procedure mechanisms to make prosecutions of terrorists much more, how should I say, constitutionally protected.

Thank you, Madam President.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President. On the bill.

I certainly appreciate the ongoing effort that we're making in this state, the Senate and the Assembly and the Governor -- and Senator Balboni has certainly been the leader -- to address the new law enforcement issues that come up in the context of threats from terrorists. It is a difficult area.

And one of the things that makes it difficult is that in the United States, what makes us a target of fundamentalist terrorists, in fact, is that we have a Constitution. We are a government of laws,

not men, and we are a society that protects the right to dissent. We have certain freedoms. The police just can't burst into your house for any reason, search your stuff and take you off to prison. These are things that were put into our Constitution after experiences with oppression by the British.

And my concern with this legislation is that I don't think we're -- if we're taking a helicopter ride, we're seeing the same traffic jam that was over this terrain in the 2005 bill, in the 2004 version, in the 2003 version. This bill -- and many of us would like to support an effort to tighten up the rules related to the prosecution of terrorists. Many of us, however, cannot support this bill because it is blatantly unconstitutional.

This is something that I would respectfully suggest -- I realize that the game here is to pass a bill and hope that the Assembly does something. But there's no point in us continuing to pass a bill, year in and year out, that clearly violates the exclusionary rule.

In fact, what this bill essentially does, by creating a broad good-faith exception it says police officers don't need a warrant; if they just can make a argument they acted in good faith, the exclusionary rule doesn't apply.

That is absolutely clearly contrary to the holdings of the United States Supreme Court, that is contrary to the holdings of the federal courts in this area, the Second Circuit Court of Appeals.

What we're doing here is simply teeing up something that would go to Senator Volker's favorite court, the New York State Court of Appeals, and where they will reject it, you know, in a three-sentence opinion.

So my request is this. If you're going to put in a bill that deals with difficult issues like roving wiretaps, where any of us could stumble into this zone of no privacy that would hover over us, if you're going to deal with issues like a good-faith exception to the exclusionary rule, which has been proven to be one of the most effective deterrents against police abuse in the history

of the United States, let's proceed with care.

And I would request, Senator Balboni, before we see this one-house bill again next year, let's amend the part that clearly violates the Constitution. The Fourth Amendment to the Constitution and Section 12, Article 1, of the constitution of this state clearly narrow the provisions of the exclusionary rule in a way that is violated by this legislation. You cannot ask this state government to openly violate federal law, and that's what this bill does.

So please let's amend that provision. Let's give us a bill we can all vote for so we can all proceed forward to try and get something through the Assembly. I'm sorry we're not doing it this year, but I hope we will do it in the future. Absent that, Madam President, I will have to vote no, as I have in the past, and urge my colleagues to do likewise.

Thank you.

THE PRESIDENT: Senator Balboni.

SENATOR BALBONI: Yes, I rise because I am really encouraged by Senator

Schneiderman's political courage. It is not every day that Senator Schneiderman gets up and calls a bill that has been drafted and supported by the Attorney General of this state, Eliot Spitzer, unconstitutional. I think that is a tremendous step in political courage.

I believe you've endorsed him or talked about supporting him, so I think it's a great moment that you would take your personal principles and put that over politics.

However, having said that, let's talk about those two aspects real quick. The first issue is the roving wiretaps. So that everybody does not confuse this issue with what happened in Washington, D.C., if you recall, the national issue about roving wiretaps was that the wiretaps would be done without a warrant and without a court looking over the wiretap.

That's not the case here, because the Attorney General of this state wouldn't support that. So he didn't. He put in a provision that said -- and by the way, when I said "he put in a provision," I mean he put in

the provision. Because this has been in other bills that he has sent up to this chamber.

And he put in a provision that said as long as you have an application that specifically identifies the person who you want to have the wiretap on, a terrorist, and that the application is approved by order with a specific timeline, then it's okay. And that is constitutional.

And by the way, as you know, that in organized crime, roving wiretaps are done right now at the federal level. We do it here as it relates to organized crime in this state through federal statutes.

And in the second piece about the good-faith exception, so that everybody understands what the good-faith exception is, first of all, who it applies to, it's terrorists. It's not some run-of-the-mill criminal. It is a terrorist.

And as it relates to terrorists, what it means is that a police officer can -- if there's a good-faith exception, that the officer believes, in good faith, that the person is a terrorist and that the evidence

will prove their crimes.

It doesn't mean that they get convicted, it means that the jury can hear that evidence. That's all it is. We don't circumvent the jury system. We have faith in our fellow citizens to decide that if evidence is brought forward about a terrorist activity, that they will make the right decisions.

This bill has been before us before, Madam President. I'm sorry we have to keep talking about it. It's time to enact this. And I think that as we continue to have demonstrations of political courage, perhaps we'll be able to have demonstrations of an appreciation as to the severity of terrorist activities in this nation and particularly this state.

Thank you.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I'm glad to be called courageous. But I think that one of the things that characterizes the skills, qualities and -- on

the bill one more time, Madam President -- the skills and qualities of the Attorney General, who many of us believe will be the next Governor, is the fact that he in fact is eager to tolerate debates.

And he and I disagree on a lot of issues. I've known him since we were both lawyers in private practice. We disagree on certain issues. And believe me, he can hold his own in any sort of an argument, and I'm happy to carry this argument on when he's in the executive.

I would suggest, however, that when we're faced with something that we have a very hard time getting through the other house, that a sign of political courage is a sign of confidence. You know, if you have political courage, and I think Senator Balboni certainly has lots of courage, what we should do is take a hard look at the reasons this may not be become a law.

And even if there's a disagreement, a serious disagreement about something as serious as the protections provided by the Fourth Amendment, the protection to be safe in

our homes, free from unlawful search and seizures, free under the Fourth, Fifth Amendments and other things that protect us, that we should take a very close look.

I don't think there's any close call, frankly, in my own opinion -- and I know there could be disagreement -- that you cannot go beyond the judicially established limits of the exclusionary rule. This reason is very simple. Senator Balboni said: Oh, this is just about terrorists. It's not about terrorists. It's about suspected terrorists.

The reason we have the system that we have in this country is to try and prevent people from being wrongfully convicted and to prevent them from being wrongfully convicted in one area by having unlawful searches and seizures. So there are suspected terrorists.

Every terrorist, we agree, should be prosecuted, should be punished to the full extent of the law. This is an effort to modify the laws to make it easier to go after this particular set of crimes.

But I would suggest that, just as the Attorney General has the strength of his

own convictions and the confidence in his own convictions to tolerate dissenting point of views and engage in debates with those of us who disagree with him, I think that we should take into account the view -- not just my view, but the view of our colleagues in the other house, in the Assembly.

And, Senator Balboni, if we don't want to just have a one-house bill for posturing here and into the future, let's try and modify this one provision. I disagree with the wiretap provisions, but I'm not making an argument it's unconstitutional. I just think it's bad public policy. The exclusionary rule provision, though, I think there's a strong argument it is unconstitutional.

Give us something we can all vote for. Give us something that can pass in the Assembly. And then we will have something that we can give to the Attorney General when he is Governor that he can actually sign, which I know is what he wants and what I want and I believe, Senator Balboni, ultimately what you want. Let's not do a one-house bill.

Let's do a law.

Thank you.

THE PRESIDENT: Does any other member wish to be heard?

Senator Volker.

SENATOR VOLKER: I side with the Attorney General and Mike Balboni. Thank you.

(Laughter.)

THE PRESIDENT: The debate is closed.

The Secretary will ring the bell.

Read the last section.

THE SECRETARY: Section 39. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 60 are Senators --

THE PRESIDENT: If the members would please take their seats. And if there's any conversation, please take it out of the chamber so that we can proceed quickly with our business.

The Secretary will announce the

results.

THE SECRETARY: -- Senators Andrews, Dilan, Duane, L. Krueger, Montgomery, Parker, Sabini, Schneiderman, Serrano and Stavisky.

Those Senators absent from voting: Senator Connor.

Ayes, 49. Nays, 10.

THE PRESIDENT: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 465, by Senator Rath, Senate Print 1568, an act to amend the Penal Law.

SENATOR SCHNEIDERMAN: Explanation.

THE PRESIDENT: Senator Rath, an explanation has been requested.

SENATOR RATH: The bill is a very simple bill. It puts a couple of sections, new sections into the Penal Law that make a municipality or a school district capable of recovering costs when a false bomb is placed and a person is convicted of being the person

who has placed that false bomb.

And a great deal of expense, of course, would have been gone to in order to roll out all of the hazardous gear, the hazmat troops. Hopefully nothing would have happened by way of automobile or truck accidents as these responses are being conducted.

But up until now -- this happened as a result of an incident that happened near my district, in a neighboring school district, and there were a lot of costs incurred and no one was able to recover the costs from the perpetrators.

THE PRESIDENT: Does any other member wish to be heard?

Then the debate is closed. The Secretary will ring the bell.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 465 are Senators Andrews, Duane and Parker.

Absent from voting: Senator Connor.

Ayes, 56. Nays, 3.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

Senator Larkin.

SENATOR LARKIN: Madam President, we'd like to open up Resolution Number 4092.

This was a resolution requested by the Orange and Ulster musical community --

THE PRESIDENT: I'm going to ask the members to return to their seats and to take any conversations out of the chamber. It is difficult to hear the speakers. We need to proceed with our business.

SENATOR LARKIN: Again, Madam President --

THE PRESIDENT: I'm going to wait until there's order, Senator.

You may proceed, Senator Larkin.

SENATOR LARKIN: Thank you, Madam President.

The musical directors of the

counties of Orange and Ulster asked me to take pride in having a resolution introduced commemorating the 75th anniversary of "The Star Spangled Banner" becoming our national anthem, and as such we've done it today. And I'd like to open it up for everybody, if you see fit to join us.

THE PRESIDENT: Any member who does not wish to cosponsor the resolution, please notify the desk.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

I believe we will then return, take up some confirmations, Senator Krueger has a petition, and then we'll adjourn.

THE PRESIDENT: There will be an immediate meeting of the Finance Committee in the Majority Conference Room.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:41 p.m.)

(Whereupon, the Senate reconvened

at 4:04 p.m.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, I believe there's a report of the Finance Committee at the desk. I ask that it be read.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the following nomination:

As Commissioner of Motor Vehicles, Nancy A. Naples, of Hamburg.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Yes, Madam President. Move the nomination, please.

THE PRESIDENT: Senator Volker.

SENATOR VOLKER: Thank you.

I have to say that I'm clearly biased, because I've known Nancy Naples for a number of years. In fact, the two of us have received awards together on a number of occasions.

She's probably the finest -- I

believe the finest comptroller that Erie County ever had. She was the comptroller at a time, tumultuous time in Erie County, probably took more abuse than anyone in government that I've ever known in Erie County.

Unfortunately, the local media didn't realize that we probably saved more money for the taxpayers through bonding and borrowing and so forth. It was certainly a shame the treatment that she received. But she was always upstanding, tough when she had to be, told it like it is.

And when Alan Hevesi, the Comptroller of the State of New York, went in and took a look at the finances, he said and his people said many times to us: "Why didn't anybody listen to the comptroller, to Nancy Naples?" And the answer was that nobody was -- at least, well, almost nobody in Erie County was listening, unfortunately. If they had listened to Nancy Naples, we wouldn't have a control board in Erie County right now.

But all that aside, that's water over the dam. But in a sense, this is a vindication of the fact that everyone knew

that Nancy Naples was one of the best public officials in Erie County. And she'll do a super job, I have no doubt, as head of the Motor Vehicle Department.

I'm proud to say that she's a friend, as her husband, Tom, is a good friend. And I wish her the very best of luck. And I can only say that we have a situation, I think, where Western New York shines today, and we're very happy with that.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Yes, Madam President. I'd like to add my congratulations to those of Senator Volker to my good friend Commissioner Naples, who I used to call Comptroller Naples. And the variety of titles that Nancy Naples has had through the years has clearly shown what a consummate professional she is.

And it was brought up in the Finance Committee that one of the only places that many people in New York State have contact with their state government is the DMV. And we have to have someone there who is showing the best side of New York State, and

Commissioner Naples will certainly provide that, through accessibility, fairness and balance as she approaches some very difficult and weighty issues in this time of national and international security and riding herd on some of those issues.

We're proud to have you there, confident that you're going to do a great job. I congratulate the Governor on his wise selection and look forward to working with you.

THE PRESIDENT: Senator Stachowski.

SENATOR STACHOWSKI: Madam President, I too rise to second the nomination of Nancy Naples.

I have the pleasure of having Nancy Naples live in my district, her and her husband. And the fact is that we know each other for roughly 30 years, I'd say, a rough ballpark number.

But she's been successful in every job she's taken. I think she brings to the office the detail kind of look at things as well as the outgoing personality that's

important in a position like that.

And I think the Governor has made a great choice, and I think Nancy will do just an excellent job. And we're glad to have Nancy Naples on board as the new Commissioner of the Department of Motor Vehicles. And it's my pleasure to second the nomination.

THE PRESIDENT: All in favor of the nomination and confirmation of Nancy A. Naples as New York State Commissioner of Motor Vehicles please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominee is hereby confirmed.

It is my great privilege as president of the Senate -- and, most importantly on this occasion, as Commissioner Naples' friend and colleague -- to preside over this confirmation.

I've known Nancy for many years as a professional in both the private and public sector. She's known, I think, beyond New York State for not only her intelligence but for

her character, her principles, and for her really even demeanor, in good times as well as bad.

You've been an excellent professional already in Erie County and in New York State. And as I said to the Governor when he decided to choose you as his nominee as commissioner, that it was an excellent choice for the people across the State of New York to get to know Nancy Naples and to have you using your expertise for the benefit of the people of the State of New York.

Congratulations. Best wishes for success.

(Applause.)

THE PRESIDENT: Commissioner Naples is here this afternoon with her stepdaughter, Barbara O'Neill, Esquire. Have a wonderful celebration.

The Secretary will continue to read.

THE SECRETARY: As a member of the Buffalo and Fort Erie Public Bridge Authority-Peace Bridge, Gerald J. Lewandowski, of Williamsville.

As a member of the Small Business Advisory Board, Alex Rovt, of Brooklyn.

As a member of the State Board of Historic Preservation, Robert B. MacKay, Ph.D., of Cold Springs Harbor.

As a member of the Empire State Plaza Art Commission, Marijo Dougherty, of Altamont.

As members of the Republic Airport Commission, Stella M. Barbera, of Lindenhurst, and Vincent A. Bologna, Jr., of West Babylon.

As a member of the State Park, Recreation and Historic Preservation Commission for the City of New York, Theodore Roosevelt, IV, of Brooklyn.

As members of the board of directors of the New York Convention Center Operating Corporation, Charles A. Gargano, of New York City, and Alan H. Wiener, of Rye.

As a member of the State Insurance Fund, Robert H. Hurlbut, of Honeoye Falls.

As a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at Oxford, Louisa Mary Platt, of Westford.

And as a member of the Board of Visitors of the South Beach Psychiatric Center, Beverly Salierno-Peare, of Brooklyn.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Move the nominations.

THE PRESIDENT: All in favor of the nominees' confirmation as read by the Secretary please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominees are all hereby confirmed.

Senator Skelos.

SENATOR SKELOS: Madam President, is there any further business at the desk?

THE PRESIDENT: No, there isn't, Senator.

SENATOR SKELOS: Would you please recognize Senator Krueger.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President. I believe I do have a motion at the desk, and I would like to have it

called at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Print 433B, by Senator L. Krueger, an act to amend the Public Health Law.

THE PRESIDENT: Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Madam President.

Today I am urging my colleagues through this motion to bring to a vote of the floor of the Senate my bill S433B, which creates the "Reproductive Cloning Prohibition and Stem Cell Research Act."

This is an act that would provide for public health law establishing both a prohibition on reproductive cloning but facilitate stem cell research and protect human subjects.

My bill is broken down into several categories: Definitions, informed consent by donors prohibitions, a commission on cloning and therapeutic research, the prohibition on reproductive cloning, possibilities for state funding.

There are an estimated 128 million Americans who are suffering from chronic degenerative and acute diseases such as juvenile diabetes, cancer, Parkinson's, Alzheimer's disease, osteoporosis, ALS (Lou Gehrig's disease), and one can go on and on.

The cost of treatment and lost productivity of these diseases is estimated to be in the hundreds of billions of dollars each year, which does not account for the extreme human loss and suffering associated with these conditions.

New York State has historically been a haven for open scientific inquiry and technical innovation. With the commitment of public and private resources, New York State has become a world leader in biomedicine and biotechnology. And yet we lag behind so many other states in the country when it comes to establishing protocols for and allowing stem cell research to move forward.

Four states have already established legislation allowing embryonic stem cell research. These include our neighbors Massachusetts, New Jersey,

Connecticut, and California.

The debate over embryonic stem cell research may result in another 10 states moving forward with legislation in the near future, according to recent press reports.

In December 2005 New Jersey officials announced $5 million in grants for stem cell research, including studies involving embryonic stem cells. According to New Jersey officials, these grants were based on science, not politics, and it sets the stage for a new era in medical treatments that will ease the suffering of millions and ultimately save lives.

California has not only passed legislation, they've passed a public resolution bond of up to $3 billion to invest in stem cell research.

I feel so strongly that New York State must take action now to support this kind of research, which could result in unprecedented treatments for diseases and the development of affordable and accessible treatments for other health threats to New Yorkers.

When a family member, when a neighbor or a friend is suffering from an illness that we cannot address, we all ask the question what more can we do. We must be prepared to say we have done everything possible, including extensive scientific research to find cures for these terrible diseases.

In 2001, the President of the United States banned federal financing for most embryonic stem cell research. This has hurt the cycle of breakthroughs that could result in cures for many of the diseases that I described before.

If we were to pass my bill, or a similar bill by someone else authorizing the conduct of stem cell research in New York, it would require informed consent for research purposes for the donors, it would prohibit human reproductive cloning, it would -- my bill would also address numerous ethical and policy concerns that have been raised regarding the use of embryonic stem cells for medical research.

One of the legislative intents of

this bill requires that public policy on stem cell research shall balance ethical, societal, and medical considerations. Policy shall be based on the understanding of science associated with this research, grounded on a thorough consideration of ethical concerns regarding that research.

In my bill, public policy on stem cell research shall be carefully crafted to ensure that researchers have the tools necessary to fulfill the promise of their work. But an ongoing commission made up of scientists, researchers, and bioethicists will ensure that the complex public policy questions do not fall to the side but, rather, as this science moves forward and as research opportunities move forward, that the State of New York will be prepared to address our laws to maximize the opportunities while protecting human subjects and ensuring that there is informed consent for anyone who would donate genetic material or who would participate in therapeutic trials.

I'd like to refer my colleagues to a report that recently was released, "New York

and Stem Cell Research: A Scientific Policy and Economic Analysis." I would just like to read briefly the names of the universities in New York State who signed on to this report and are urging us to move forward quickly to ensure that we have stem cell research in New York State: The University of Buffalo, Columbia University Medical Center, Cornell University, Memorial Sloan-Kettering Cancer Center, Mount Sinai Medical Center, New York University, Rensselaer Polytech Institute, the University of Rochester, Albany Medical Center, Rockefeller University, the Rochester Institute of Technology, Stony Brook University, SUNY Downstate Medical Center, SUNY Upstate Medical University, Syracuse University, the Roswell Park Cancer Institute, and the Albert Einstein College of Medicine at Yeshiva University.

The great scientists, medical institutions, and researchers in our state are in fact begging us to move forward with legislation to ensure that they can, in good faith, continue their efforts to expand embryonic stem cell research in our state and

hopefully, very soon in the future, be able to proudly announce that here in New York State we have come to solve some of the worst medical crises of our time.

I urge my colleagues to support me in this motion to discharge.

Thank you, Madam President.

THE PRESIDENT: All in favor of the petition out of committee please signify by raising your hand.

THE SECRETARY: Those recorded in agreement are Senators Andrews, Breslin, Coppola, Dilan, Duane, Gonzalez, Klein, L. Krueger, C. Kruger, Montgomery, Onorato, Parker, Paterson, Sabini, Sampson, Savino, Schneiderman, Serrano, A. Smith, M. Smith and Valesky.

THE PRESIDENT: The petition is not agreed to.

(Negative response from floor.)

THE PRESIDENT: Senator Marcellino.

SENATOR MARCELLINO: In an attempt to assuage the Minority's disappointment, there being no further

business, I move we adjourn until Wednesday, March 22nd, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate now stands adjourned until Wednesday, March 22nd, 11:00 a.m.

(Whereupon, at 4:21 p.m., the Senate adjourned.)