NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 28, 2006

3:33 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

THE PRESIDENT: The Senate will please 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.)

THE PRESIDENT: With us this afternoon to give the invocation is Reverend Dayle Keefer, pastor of Fluvanna Community Church in Jamestown, New York.

Reverend Keefer.

REVEREND KEEFER: Gracious Father, we come together as this Senate has assembled itself. I pray for them. I ask, O God, Your blessing upon them as they do business for the people of this state.

I thank You for their commitment. I thank You for placing in their heart the servant heart.

And as they serve these people of this state, I ask that Your sovereign will will be accomplished in their decisions. I ask You for divine wisdom for them. And as

they do this business, may they receive from You the goodness and well-being of the job well done.

Grant Your blessing, then, I ask in Jesus' name. Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 27, the Senate met pursuant to adjournment. The Journal of Sunday, March 26, was read and approved. On motion, Senate adjourned.

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

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 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, there's a resolution at the desk by Senator Morahan. If we could have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Morahan, Legislative Resolution Number 4297, commending George J. Parness upon the occasion of his designation for special honor at the 10th Anniversary celebration of the Suffern Community Center on April 2, 2006.

THE PRESIDENT: All in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please recognize Senator Bonacic.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President.

This is with regard to Resolution 4196.

It's with a heavy heart that I stand today in support of this resolution in honor of a young man who was 22 years old. His name was Carlos Gonzalez, and he was from my town of Mount Hope in Orange County. And he was killed in Tikrit, north of Baghdad, on March 16th.

We're here to honor him for the ultimate sacrifice that he has made in protecting our freedoms. Our prayers go to his family -- he had a 1-year-old daughter and a surviving wife and brother -- and we ask

that the Lord watch out for his soul.

Thank you, Madam President.

THE PRESIDENT: The resolution was previously adopted.

Thank you, Senator Bonacic.

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 470, by Senator Spano, Senate Print 6758, an act to amend the Civil Service Law and the Labor Law, in relation to inclusion.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

507, by Senator Seward, Senate Print 6887, an act to amend the Insurance Law, in relation to filing.

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, 54.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 559, by Senator Volker, Senate Print 1524A, an act to amend the Criminal Procedure Law, in relation to expanding.

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, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 560, by Senator Volker, Senate Print 1530, an act to amend the Criminal Procedure Law, in relation to appeals.

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, 54. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 563, by Senator Morahan, Senate Print 1679, an act to amend the Penal Law, in relation to providing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 569, by Senator DeFrancisco, Senate Print 4022, an act to amend the Criminal Procedure Law, in relation to permitting.

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, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 572, by Senator LaValle, Senate Print 6675, an act to amend the Criminal Procedure Law, in relation to granting.

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, 53. Nays, 2. Senators Duane and Montgomery recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 580, by Senator LaValle, Senate Print 189, an act to amend the Highway Law, in relation to limitations.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 593, by Senator Spano, Senate Print 5206, an act to amend the Tax Law, in relation to authorizing the disclosure.

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, 55.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 595, by Senator Farley, Senate Print 6396, an act to amend the Public Officers Law, in relation to the residency requirement.

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, 55.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

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

THE PRESIDENT: No, there is no

further business at the desk, Senator.

SENATOR SKELOS: Then if you would recognize Senator Schneiderman.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I have a motion at the desk, and I would like to have it called up at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Print 1587A, by Senator Schneiderman, an act to amend the Environmental Conservation Law and the State Finance Law.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

Ladies and gentlemen, the legislation that I'm attempting to bring to the floor by this motion, Senate Bill 1587, is essentially identical to Senate Bill 2081, sponsored by Senator Marcellino and sponsored in the Assembly by his distinguished counterpart.

This is legislation that is absolutely critical to our state. And we have an environmental problem, ladies and gentlemen. We have a problem that our wetlands are no longer protected. Because of all the states in the Northeast, we're the only ones that have not closed the loophole created by a 2001 court decision that limits the federal government's protection of our wetlands.

This is a problem. This is an environmental problem. But it's not an environmental problem in other parts of the state, it's an environmental problem in this room. I say that because the Assembly has acted. On March 17th, they passed a bill that is identical to the legislation I'm attempting to bring to the floor. The Governor has put a different version of wetlands protection in his own proposals, and he is willing to come to the table and close this loophole. The Senate is the one place we can't get this passed.

But I would urge you that we have a solution to the problem. Senator Marcellino's

bill has a dozen Majority sponsors on it. You will see from the vote here today that my bill has more than enough support in our conference, so that together we could pass this legislation. What we have here is a simple case of the leadership needing to put this bill on the floor so that wetlands of the state will not continue to be destroyed.

Ladies and gentlemen, we heard a lot about flooding earlier in this session. And one of the problems with the increased flooding, as recognized by every government agency that's studied the issue, is the fact that we're closing down wetlands. Each acre of wetlands stores 1.5 million gallons of floodwater.

One of the reasons we have increased problems in our flooding areas -- related to, I know, problems with dams and the watershed area, but in particular areas that have the very same small wetlands that are no longer protected since the 2001 change in the law -- is right now, unless a wetland is 12.4 acres or larger, state law can't protect it.

Let's close that loophole. Let's protect all the wetlands of the state, as every other state in the Northeast has done. We're surrounded by states that have taken this action. The Assembly has acted. The Governor is ready to go. The environmental crisis for wetlands exists solely in this room.

Ladies and gentlemen, I urge you to bring this bill to the floor. Let's vote on it today. Let's vote on it later this year if it doesn't pass today. But let's not finish this session with the Senate being the one obstacle to protecting the wetlands of our state, protecting our drinking water, to preventing flooding. This is not a year in which we can disregard the environment any longer.

This is a critical bill, top priority for most of the environmental groups in this state, and I would urge all of you to vote in support of this motion and bring it to the floor.

Thank you.

THE PRESIDENT: All those

Senators in favor of the petition out of committee please signify by raising your hands.

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

THE PRESIDENT: The petition is not agreed to.

Senator Skelos.

SENATOR SKELOS: Madam President, could you please recognize Senator Gonzalez.

THE PRESIDENT: Senator Gonzalez.

SENATOR GONZALEZ: Thank you, Madam President.

There will be a meeting of the Minority conference tomorrow, Wednesday, March 29th, 11:00 a.m., Room 315.

THE PRESIDENT: There will be a meeting of the Minority conference on Wednesday, March 29th, at 11:00 a.m., Room 315.

SENATOR GONZALEZ: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, we are all smiling today because Senator Marchi is sitting in that esteemed chair once again, making sure that we have a great budget for the people of the State of New York.

Senator Marchi, welcome back.

(Extended applause.)

THE PRESIDENT: To give Senator Marchi his due respect, the pastor who gave the invocation mentioned, when he came up, the degree of camaraderie in the room. And what he was observing was our welcome back of you, Senator Marchi.

So there is a lot of love and respect for you in the Senate. Welcome home.

Senator Skelos.

SENATOR SKELOS: There will be an 11:00 a.m. conference of the Majority tomorrow, Wednesday.

And there being no further business to come before the Senate, I move we stand adjourned until Wednesday, March 29th, at 12:00 noon.

THE PRESIDENT: There will be a conference of the Majority tomorrow, Wednesday, March 29th, at 11:00 a.m.

There being no further business, the Senate now stands adjourned until Wednesday, March 29th, at 12:00 noon.

(Whereupon, at 3:47 p.m., the Senate adjourned.)