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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 18, 2007

11:03 a.m.

REGULAR SESSION

SENATOR CARL L. MARCELLINO, Acting President

STEVEN M. BOGGESS, Secretary

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P R O C E E D I N G S

ACTING PRESIDENT MARCELLINO: The Senate will come to order.

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

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

ACTING PRESIDENT MARCELLINO: In the absence of clergy, may we observe a moment of silence, please.

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

ACTING PRESIDENT MARCELLINO: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, April 17, the Senate met pursuant to adjournment. The Journal of Monday, April 16, was read and approved. On motion, Senate adjourned.

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

We have the presentation of petitions.

1 Messages from the Assembly.
2 Messages from the Governor.
3 Reports of standing committees.
4 Reports of select committees.
5 Communications and reports from
6 state officers.

7 Motions and resolutions.

8 Senator Skelos.

9 SENATOR SKELOS: Mr. President,
10 if we could adopt the Resolution Calendar.

11 ACTING PRESIDENT MARCELLINO: All
12 in favor of adopting the Resolution Calendar
13 signify by saying aye.

14 (Response of "Aye.")

15 ACTING PRESIDENT MARCELLINO:
16 Opposed, nay.

17 (No response.)

18 ACTING PRESIDENT MARCELLINO: The
19 Resolution Calendar is adopted.

20 Senator Skelos.

21 SENATOR SKELOS: Mr. President,
22 Resolution 1307 by Senator Wright was
23 previously adopted on March 30th. If we could
24 have it read in its entirety at this time.

25 ACTING PRESIDENT MARCELLINO: The

1 Secretary will read.

2 THE SECRETARY: By Senator
3 Wright, Legislative Resolution Number 1307,
4 congratulating the SUNY Oswego Men's Hockey
5 Team upon the occasion of capturing the 2007
6 NCAA Division III Championship.

7 "WHEREAS, Excellence and success in
8 competitive sports can be achieved only
9 through strenuous practice, team play and team
10 spirit, nurtured by dedicated coaching and
11 strategic planning; and

12 "WHEREAS, It is the sense of this
13 Legislative Body to recognize and pay tribute
14 to those teams within the State of New York
15 who have inspired and brought pride to their
16 school and community by achieving outstanding
17 success in athletic competition; and

18 "WHEREAS, Attendant to such
19 concern, and in full accord with its
20 long-standing traditions, this Legislative
21 Body is justly proud to congratulate the SUNY
22 Oswego Men's Hockey Team upon the occasion of
23 capturing the 2007 NCAA Division III
24 Championship; and

25 "WHEREAS, The SUNY Oswego Lakers

1 Men's Hockey Team defeated Middlebury College
2 4-3 to finish the season with a 23-3-3 record
3 and captured the school's first team
4 championship in any sport; and

5 "WHEREAS, The Lakers were led by
6 goalie Ryan Scott, who made 47 saves in the
7 game, to set an NCAA Division III Championship
8 record. In addition, his 19 saves in the
9 first period tied a record held by two other
10 players; and

11 "WHEREAS, The athletic talent
12 displayed by this team is due in great part to
13 the efforts of Head Coach Ed Gosek and his
14 team of outstanding assistant coaches, skilled
15 and inspiration tutors who have done a superb
16 job in guiding, molding and inspiring the team
17 members toward their goals; and

18 "WHEREAS, Loyally and
19 enthusiastically supported by family, fans,
20 friends and the community at large, the SUNY
21 Oswego Men's Hockey Team have proven
22 themselves to be an unbeatable combination of
23 talents, reflecting favorably on their school;
24 now, therefore, be it

25 "RESOLVED, That this Legislative

1 Body pause in its deliberations to
2 congratulate the SUNY Oswego Men's Hockey
3 Team, its members -- Chris Hyk, Rich Zalewski,
4 Kyle McCutcheon, Rick Varone, Tyler Laws,
5 Trevor Gilligan, Neil Musselwhite, Derrell
6 Levy, Tony DiNunzio, Garren Reisweber, C.J.
7 Thompson, Brad Dormiedy, Jeffrey Johnstone,
8 Ryan Woodward, Brendan McLaughlin, Peter
9 Magagna, Tyler Lyon, Ryan Ellis, Mike Novak,
10 Mark Lozzi, Francois Gagnon, Matt Whitehead,
11 Ryan Koresky, Matt Wolf, Ryan Scott --
12 Assistant Coaches Dan Ford, Pete Sears and
13 Glenn Sisman, and Head Coach Ed Gosek upon the
14 occasion of capturing the 2006 NCAA Division
15 III Championship; and be it further
16 "RESOLVED, That a copy of this
17 resolution, suitably engrossed, be transmitted
18 to the SUNY Oswego Men's Hockey Team."
19 ACTING PRESIDENT MARCELLINO: On
20 the resolution, Senator Wright.
21 SENATOR WRIGHT: Thank you,
22 Mr. President.
23 I rise to welcome the national
24 champions here to the State Capitol today.
25 I'm joined by two of my Assembly colleagues,

1 who also represent the Oswego area,
2 Assemblyman Barclay and Assemblyman
3 Townsend -- if you'd please rise. They will
4 be escorting the team to the Assembly chambers
5 in a few minutes.

6 This is a great opportunity to
7 recognize one of our SUNY institutions and the
8 accomplishments of our student athletes. SUNY
9 Oswego has sent hockey teams to the Final
10 Four -- or what's referred to as the Frozen
11 Four in hockey circles -- on three different
12 occasions. And this past year this team,
13 these young men were successful in becoming
14 the national champions for the first time in
15 Division III. They have a long history of
16 successfully winning SUNY championships, both
17 at the tournament level as well as
18 consistently ending atop the SUNY standings at
19 the end of the year.

20 So we're very proud of them. The
21 institution itself is a strong part of our
22 SUNY system, a strong part of the local
23 economy, and everyone, the entire community at
24 large, took a great deal of pride in the
25 accomplishment of these young men and their

1 team.

2 I want to identify and recognize a
3 couple of individuals. Number one, of course,
4 the team is led by its coach, Ed Gosek. Ed,
5 if you would stand, please.

6 Ed has been coach of the Oswego
7 State Lakers since 2003, and this past year he
8 was recognized as the AHCA Division III Coach
9 of the Year. So you can see we're very
10 pleased that the coach as well has been
11 recognized for his accomplishments, and we
12 want to acknowledge those efforts, too.

13 Ed, job well done, and I know the
14 team feels that way.

15 Ed is accompanied by Tim Hale, who
16 is the athletic director for the State
17 University at Oswego.

18 The team is host to two All
19 Americans: Ryan Scott, who's the goalie and
20 is a junior, from Williamsville, New York,
21 represented by my colleague to our right,
22 Senator Rath. We also have another All
23 American, Brendan McLaughlin, who's a forward
24 and a sophomore.

25 Then we have three other

1 New Yorkers: Rich Zalewski, who is a senior
2 from New Hartford; Trevor Gilligan, who's a
3 senior from Saranac Lake; and Garren
4 Reisweber, who is a sophomore from
5 Williamsville also. It is Garren who scored
6 the goal that won the championship in the
7 overtime that made Oswego the national
8 champions over Middlebury.

9 We're very proud of this team, of
10 what it represents. These student athletes
11 not only represent our community, but they
12 represent the State of New York. Their
13 success in no small part is directly
14 attributable to the investment the State of
15 New York has made in brand-new facilities that
16 were opened this year, a brand-new student
17 center with a combined hockey facility that is
18 now home to the national champions. I think
19 that's the kind of investment we can be proud
20 of as New Yorkers.

21 We know that this team will be
22 returning next year, because next year
23 New York State will be hosting the national
24 championship, the Frozen Four, at Lake Placid.
25 So we look forward to New York being

1 represented by Oswego State and these young
2 men returning with a second trophy so that
3 they can repeat and then sent the stage for a
4 three-peat.

5 I'd like to ask Captain Ryan
6 Woodward to stand, if he would. Ryan has the
7 trophy, if you would share that with everyone.
8 That's a what a national trophy looks like.

9 These young men, if you would all
10 rise, are what national champions look like.
11 Congratulations. We welcome you to the
12 Capitol. We're very proud of you. We
13 appreciate you taking the time.

14 Thank you, Mr. President.

15 (Applause.)

16 ACTING PRESIDENT MARCELLINO:

17 Gentlemen, I hope you feel no pressure as a
18 result of Senator Wright's remarks.

19 Senator Rath, please.

20 SENATOR RATH: Thank you,
21 Mr. President.

22 I would like to add my
23 congratulations to those of the other members,
24 and particularly to Senator Wright for
25 bringing the team here today so we can say

1 thank you in person.

2 And congratulations to the coach
3 and the athletic director and team captain,
4 and of course my two constituents, Garren
5 Reisweber and Ryan Scott from Williamsville.
6 Congratulations, gentlemen.

7 I would assume that somewhere along
8 the way you played Amherst hockey over in the
9 Pepsi Center, or somewhere in Western New York
10 you may have played hockey before you got to
11 college. And I will only say that hockey is
12 sort of a Western New York pastime. Not only
13 do we have lots of cold and snow and Canadians
14 right across the bridge, as we all know, but
15 we have -- as Oswego saw lots of snow and ice
16 this year, we've always made the best of our
17 cool and cold winters.

18 I would say to you please pay
19 attention tonight as the Buffalo Sabres are
20 squaring off against the Long Islanders. You
21 will see there's a competition going on
22 between the upstate representatives from
23 Western New York and the Senators from Long
24 Island as the Islanders and the Sabres, as I
25 said, square off in this next game of the

1 Stanley Cup finals. And of course I'm going
2 to have to wear an Islanders jersey if the
3 Sabres aren't successful. As we know, they
4 will be wearing Sabres jerseys, because we
5 know the Sabres will be successful.

6 So keep up the good work as
7 national champs. Enjoy this moment in the
8 sun. Come back next year. And as Senator
9 Wright says, we'll be on the way next year
10 towards a three-peat, which you will have the
11 following year. We're very proud of you.
12 Good luck, and Godspeed.

13 ACTING PRESIDENT MARCELLINO:
14 Senator Little, on the resolution.

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

17 I would like to join all my
18 colleagues in recognizing this wonderful team
19 from our SUNY systems school of Oswego, with
20 the Division III Championship. And I might
21 mention that their sister school, SUNY
22 Plattsburgh Women's Hockey, won the Division
23 III NCAA Championship as well. So we're very
24 proud of our SUNY system athletic programs.

25 But I'm very proud of one of my

1 constituents, Trevor Gilligan, from Saranac
2 Lake, who is here. His dad is an important
3 part of the faculty at Saranac Lake Central
4 School. Athletics has been a big part of
5 Trevor's life and his whole family's life, and
6 I congratulate him for his participation, for
7 his wonderful success on this team.

8 Congratulations to all of you on a
9 really major achievement.

10 Thank you.

11 ACTING PRESIDENT MARCELLINO:

12 Thank you, Senator.

13 The resolution has been adopted
14 previously, so there will be no need to vote.

15 Congratulations, gentlemen. Keep
16 up the good work.

17 Senator Skelos.

18 SENATOR SKELOS: Mr. President,
19 there will be an immediate meeting of the
20 Finance Committee in the Majority Conference
21 Room.

22 ACTING PRESIDENT MARCELLINO:

23 There will be an immediate meeting of the
24 Finance Committee in the Majority Conference
25 Room, Room 332.

1 The Senate will stand at ease
2 pending the return of the Finance Committee.

3 (Whereupon, the Senate stood at
4 ease at 11:15 a.m.)

5 (Whereupon, the Senate reconvened
6 at 12:44 p.m.)

7 ACTING PRESIDENT MARCELLINO:
8 Senator DeFrancisco.

9 SENATOR DeFRANCISCO: Would you
10 please move to the noncontroversial reading of
11 the calendar and read same, please.

12 ACTING PRESIDENT MARCELLINO: The
13 Secretary will read same.

14 THE SECRETARY: Calendar Number
15 27, by Senator Larkin, Senate Print 224A, an
16 act to amend the Labor Law, in relation to
17 certain dancers.

18 SENATOR DeFRANCISCO: Please lay
19 that aside for the day.

20 ACTING PRESIDENT MARCELLINO: The
21 bill will be laid aside for the day.

22 THE SECRETARY: Calendar Number
23 239, by Senator Morahan, Senate Print 924, an
24 act to amend the Mental Hygiene Law, the
25 Social Services Law, and the Education Law.

1 ACTING PRESIDENT MARCELLINO:

2 Read the last section.

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

5 SENATOR DeFRANCISCO: Lay that
6 aside temporarily.

7 ACTING PRESIDENT MARCELLINO: Lay
8 that bill aside temporarily, please.

9 THE SECRETARY: Calendar Number
10 240, by Senator Libous, Senate Print 2148, an
11 act to amend the Mental Hygiene Law, in
12 relation to directing the State Commission on
13 Quality of Care.

14 ACTING PRESIDENT MARCELLINO:
15 Read the last section.

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

18 ACTING PRESIDENT MARCELLINO:
19 Call the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 56. Nays,
22 1. Senator Duane recorded in the negative.

23 ACTING PRESIDENT MARCELLINO: The
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 242, by Senator Morahan, Senate Print 2901, an
2 act to amend the Mental Hygiene Law, in
3 relation to requiring.

4 ACTING PRESIDENT MARCELLINO:
5 Read the last section.

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

8 ACTING PRESIDENT MARCELLINO:
9 Call the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 57.

12 ACTING PRESIDENT MARCELLINO: The
13 bill is passed.

14 THE SECRETARY: Calendar Number
15 243, by Senator Morahan, Senate Print 3105A,
16 an act to amend the Mental Hygiene Law, in
17 relation to incident notifications.

18 ACTING PRESIDENT MARCELLINO:
19 Read the last section.

20 THE SECRETARY: Section 11. This
21 act shall take effect immediately.

22 ACTING PRESIDENT MARCELLINO:
23 Call the roll.

24 (The Secretary called the roll.)

25 ACTING PRESIDENT MARCELLINO:

1 Senator Morahan, to explain his vote.

2 SENATOR MORAHAN: Thank you,
3 Mr. President.

4 This bill, which will now be called
5 Jonathan's Law, is dedicated to the memory of
6 a young 14-year-old autistic boy, Jonathan
7 Carey, who, while in the hands of a state
8 facility, lost his life.

9 And while we're not going to
10 discuss at this time any of the ramifications
11 that occurred, inasmuch as it's under current
12 investigation by law enforcement, the genesis
13 of the bill really goes back to another
14 location where Jonathan was housed, the
15 Anderson School. And his presents had
16 approached the Legislature prior to his demise
17 about what happened in the Anderson School and
18 their inability to access records of what
19 investigation, if any, occurred on allegations
20 of abuse.

21 They went to the district attorney,
22 they went to all agencies they could access.
23 And notwithstanding that effort, they really
24 didn't learn a whole lot, if anything, about
25 what occurred. I believe after several months

1 they just received a one-page --

2 ACTING PRESIDENT MARCELLINO:

3 Senator Morahan, if I may interrupt, I was in
4 error when I asked you to explain your vote.
5 The bill that I believe you want to talk on
6 and others have indicated they wish to talk on
7 is Senate 924, which was laid aside
8 temporarily.

9 If you don't mind, can I make a
10 correction? May I correct my error?

11 SENATOR MORAHAN: Yes.

12 ACTING PRESIDENT MARCELLINO: And
13 lay this bill aside that we have on the floor
14 right now, and recall Senate 924.

15 Senator, continue. I apologize.

16 SENATOR MORAHAN: We were on the
17 right bill; correct?

18 ACTING PRESIDENT MARCELLINO: Go
19 ahead.

20 SENATOR MORAHAN: Okay. Thank
21 you, Mr. President.

22 At any rate, this bill will now
23 allow parents and others to access files of
24 their loved ones for any investigation of
25 abuse.

1 We believe the people of the State
2 of New York want the parents of children that
3 are either in an institution run by the state
4 or an institution run by a certified agency by
5 a state to have access of any improprieties,
6 allegations of abuse, and any investigations
7 that flow from that.

8 The bill does provide for the
9 redacting of names to protect those who
10 testify to remove any chilling factor that may
11 occur because people are somewhat reluctant to
12 testify, so we can get to the truth, the whole
13 truth, and nothing but the truth, as they say.

14 This bill will also direct that
15 parents and loved ones be notified by OMRDD of
16 any infractions or allegations of abuse
17 relating to their children.

18 The Carey family has pursued this
19 type of legislation for a long time before
20 their son died, and since he died. We have a
21 similar bill in the Assembly, and that bill
22 will be passed on Monday. And I ask
23 everyone's support for this bill that I
24 believe will open up, bring in some fresh air,
25 if you will, to those investigations happening

1 in the OMRDD agency or agencies that they
2 oversee.

3 It's called Jonathan's Law in
4 memory of that young boy, an autistic child
5 who died while in and under state authority.
6 And I think the Carey family, who worked so
7 hard to get this bill through and the
8 necessary support for it, ought to be
9 congratulated. And they're with us this
10 afternoon observing these proceedings.

11 Thank you, Mr. Chairman.

12 ACTING PRESIDENT MARCELLINO:
13 Senator Breslin, to explain his vote.

14 SENATOR BRESLIN: Thank you,
15 Mr. President.

16 The Carey family, Lisa and Michael,
17 came into my office some three years ago, and
18 they alleged violations dealing with their son
19 Jonathan. And at that time it was impossible
20 to get any information, and in fact agencies
21 stonewalled the family. Letters were written
22 to the district attorney, to all of the state
23 agencies involved, to executive agencies,
24 without response. And unfortunately it took
25 the death of Jonathan, in an unrelated event,

1 to bring everyone together.

2 And we look around and we think of
3 so much legislation that we pass which is in
4 effect positive legislation, but it's
5 predicated on someone's death. And why is it
6 not possible to, at the time things happen
7 without serious injury or death, we can't be
8 more deliberative to come up with good
9 solutions?

10 So it's hoped that at least with
11 this legislation that Jonathan's name will
12 live on, that we will begin to be much more
13 transparent in the way we deal with the most
14 vulnerable of our citizens, particularly in
15 this case. Jonathan was nonverbal and in
16 serious condition. And we need people in
17 those situations not only to take care of our
18 most vulnerable but to look after the people
19 who are taking care of them.

20 So I heartily support this bill. I
21 think it will bring much transparency to an
22 area where we really deal with over 100,000
23 disabled children in this state. And this law
24 will do much to change the way we've done
25 business in the past.

1 And I applaud the Careys for never
2 taking their eye off the ball to change the
3 system, to make the system better.

4 I vote aye.

5 ACTING PRESIDENT MARCELLINO:
6 Senator LaValle, to explain his vote.

7 SENATOR LaVALLE: Thank you very
8 much, Mr. President.

9 I just want to be very brief, but I
10 wanted to just take a few seconds to
11 compliment our chairman who has shown, in
12 dealing with this chairmanship, a focus, an
13 energy, but also, in an area that is very,
14 very complex and can be very emotional, a
15 great deal of compassion in bringing
16 legislation and resolving problems, working
17 with families to get a result.

18 And, Senator Morahan, I just really
19 compliment you for your work.

20 I have a very, very dear and close
21 personal friend who has three autistic
22 children. And over the period of many years,
23 I have learned of all of the complexities.
24 And each one of us in this chamber are
25 learning that as we approach the issue of

1 autism, we are learning.

2 It is an evolving area of
3 knowledge, of concern, and certainly this
4 legislation comes at a time when everyone --
5 Senator Breslin talked about transparency;
6 fresh air, Senator Morahan used. And I think
7 I'll choose a different word, sunshine,
8 sunlight on an issue that I think parents and
9 other individuals need to have knowledge, need
10 to have the tools on how we repair a situation
11 so it never, ever happens again.

12 And so I congratulate you, Senator
13 Morahan, for bringing this bill before us.

14 Thank you.

15 ACTING PRESIDENT MARCELLINO:
16 Senator Libous, to explain his vote.

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

19 And like my colleague Senator
20 LaValle, I want to applaud Senator Morahan for
21 his compassion and Senator Morahan for taking
22 immediate action on this very important
23 legislation.

24 And to Mr. and Mrs. Carey, I say
25 that I am so sorry. I can't imagine what it

1 would be like to lose a child. I have not
2 experienced that. And I don't think anyone
3 would want to experience that.

4 And beyond that, the years that you
5 tried to access information because of trying
6 to find out what was going on with the care of
7 Jonathan. And this legislation is going to
8 help not only the children that are going to
9 be cared for but the parents that need access
10 to the information that unfortunately you
11 could not receive, to understand what type of
12 care was taking place with Jonathan or
13 behavior that shouldn't have been taking place
14 with your child.

15 My colleagues mentioned that
16 Jonathan's memory will go on because of this
17 legislation, but I think Jonathan lives with
18 all of us here today and will continue to live
19 with us beyond this legislation that is so
20 important. You have also helped us, through
21 your son, to open the door and understand that
22 we have a long way to go in this state as we
23 care for autistic children, and we really
24 don't do enough.

25 Actually we do, as I said at the

1 hearing, a miserable job. And again, I
2 apologize to you -- and I know that's not
3 anywhere near enough -- and we need to do a
4 better job. And I will assure you that this
5 body will move forward not only with Senator
6 Morahan's response today, by passing
7 Jonathan's Law, but seeing to it that OMRDD
8 takes immediate action in looking at how we
9 care for particularly autistic children --
10 everyone with autism, but particularly
11 autistic children.

12 Because that is an area right now,
13 my colleagues, that is not being attended to.
14 And we need to put that on the front burner so
15 that we can work very hard to protect these
16 children within our state system.

17 ACTING PRESIDENT MARCELLINO:
18 Senator Fuschillo, to explain his vote.

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

21 I want to also commend my colleague
22 Senator Morahan for his leadership and
23 compassion with this issue.

24 I think what bothers me so much
25 about what I've learned over the last few

1 months in meeting with the Careys is that they
2 should have had the comfort level that all of
3 us have as parents -- not of developmentally
4 disabled children, but the comfort level that
5 when you went to bed every night that your
6 child was safe. And you didn't have that.

7 And prior to Jonathan's tragic
8 passing, you fought hard, long, hours and days
9 and weeks and months to find out what you as
10 parents, and parents throughout this state of
11 the hundreds of thousands of children -- you
12 mentioned this morning, you have a right to
13 know, as we do, everything about our children.

14 And as you know, I was working with
15 Bill Bunter for the past couple of months, who
16 has a grown daughter under the state's care,
17 who's a perfect example of what you've gone
18 through. He found out that his daughter,
19 who's under the state's care, had an infection
20 on her leg, but they wouldn't tell him how or
21 why or what was going on with that. Then he
22 found out that she was in the hospital having
23 surgery to remove a piece of her wheelchair
24 that was embedded in her leg. But they
25 wouldn't tell him what happened, they wouldn't

1 give him any information or testimony at a
2 review board, a state review board that was
3 investigating what happened to his daughter.
4 And they wouldn't tell him because the laws
5 were protecting them rather than his daughter
6 or him or your son Jonathan, who couldn't
7 speak.

8 What a disgrace. Talk about a
9 system that doesn't work and failed your son
10 and failed Bill Bunter's daughter. That he
11 had to find out, by chance, from a nurse, that
12 there was a piece of her wheelchair embedded
13 in her leg that was causing the infection, and
14 that's why she was rushed to have surgery.
15 What a disgrace.

16 As I said to the Careys earlier
17 this morning -- Jonathan's dad is wearing a
18 button of Jonathan. I said, "Now you have
19 your guardian angel with you."

20 And I know Tom Morahan won't stop,
21 that we have to keep going. As Senator Libous
22 said, there is a lot of work to be done. Kids
23 and young adults and adults that are under the
24 state care at the facilities that families
25 entrust them to should have peace of mind, go

1 to bed at night knowing that their kids and
2 loved ones are safe. And they're not.

3 So you have a charge now, the
4 Careys, to keep it going. I don't know how
5 you do it, and I said that to you this
6 morning. But I commend you. God bless you.

7 Mr. President, I'll be voting in
8 favor of this legislation. Thank you very
9 much.

10 ACTING PRESIDENT MARCELLINO:

11 Thank you, Senator Fuschillo.

12 Senator Farley, to explain his
13 vote.

14 SENATOR FARLEY: Thank you,
15 Mr. President.

16 I rise in support of this
17 legislation. Jonathan Carey's tragedy
18 happened in my Senate district, in Schenectady
19 County, and it's an issue that affected
20 everybody not only in the Capital District but
21 the state of New York.

22 And, you know, I expressed my
23 sympathy to the Careys, who are in the gallery
24 today, who have really made a difference on
25 behalf of their son.

1 Jonathan's Law, I have seldom seen
2 anything that has moved with such dispatch
3 through this Legislature, which has been
4 criticized. But we acted, we acted on behalf
5 of Jonathan Carey. We acted because the
6 parents of this young man had to see something
7 happen to correct some of the things that have
8 been -- the tragedies and so forth that have
9 happened throughout our system.

10 It is truly a tribute to you. I
11 know that the hurt and the pain of losing a
12 child is something that nobody can -- I can't
13 really understand. But you have made a
14 difference on behalf of your son. And as so
15 many have said, you do have an angel up there
16 that is looking out not only for you but for
17 all the disabled that will come to this state.

18 I congratulate you for what you've
19 you have done and the care that you have given
20 your child over the years. You have really
21 made a difference in his death, because he
22 will be immortalized with Jonathan's Law. I
23 wish you well.

24 ACTING PRESIDENT MARCELLINO:

25 Thank you, Senator Farley.

1 Announce the results.

2 THE SECRETARY: Ayes, 57. Nays,
3 0.

4 ACTING PRESIDENT MARCELLINO: The
5 bill is passed.

6 (Applause.)

7 ACTING PRESIDENT MARCELLINO: The
8 Secretary will continue to read.

9 THE SECRETARY: Calendar Number
10 267, by Senator Diaz, Senate Print 3167, an
11 act to amend the Elder Law, in relation to
12 providing companion pets for seniors.

13 ACTING PRESIDENT MARCELLINO:
14 Read the last section.

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

17 ACTING PRESIDENT MARCELLINO:
18 Call the roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes, 57.

21 ACTING PRESIDENT MARCELLINO: The
22 bill is passed.

23 THE SECRETARY: Calendar Number
24 444, by Senator Larkin, Senate Print 2825, an
25 act to amend the Racing, Pari-Mutuel Wagering

1 and Breeding Law, in relation to task force.

2 ACTING PRESIDENT MARCELLINO:

3 Read the last section.

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

6 ACTING PRESIDENT MARCELLINO:

7 Call the roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes, 57.

10 ACTING PRESIDENT MARCELLINO: The
11 bill is passed.

12 THE SECRETARY: Calendar Number
13 454, by Senator Volker, Senate Print --

14 SENATOR SKELOS: Lay it aside for
15 the day.

16 ACTING PRESIDENT MARCELLINO: Lay
17 the bill aside for the day.

18 THE SECRETARY: Calendar Number
19 465, by Senator Golden, Senate Print 450, an
20 act to amend Chapter 912 of the Laws of 1920
21 allowing and regulating boxing.

22 ACTING PRESIDENT MARCELLINO:

23 Read the last section.

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

1 ACTING PRESIDENT MARCELLINO:

2 Call the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Those recorded in
5 the negative on Calendar Number 465 are
6 Senators Duane, Libous, Maltese and Rath.

7 Ayes, 53. Nays, 4.

8 ACTING PRESIDENT MARCELLINO: The
9 bill is passed.

10 THE SECRETARY: Calendar Number
11 467, by Senator Little, Senate Print 1115, an
12 act to amend the Navigation Law, in relation
13 to operation of public vessels.

14 ACTING PRESIDENT MARCELLINO:
15 Read the last section.

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

18 ACTING PRESIDENT MARCELLINO:
19 Call the roll.

20 (The Secretary called the roll.)

21 THE SECRETARY: Ayes, 57.

22 ACTING PRESIDENT MARCELLINO: The
23 bill is passed.

24 THE SECRETARY: Calendar Number
25 468, by Senator Maziarz, Senate Print 506, an

1 act to amend the Vehicle and Traffic Law, in
2 relation to installation.

3 ACTING PRESIDENT MARCELLINO:
4 Read the last section.

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

7 ACTING PRESIDENT MARCELLINO:
8 Call the roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes, 57.

11 ACTING PRESIDENT MARCELLINO: The
12 bill is passed.

13 THE SECRETARY: Calendar Number
14 469, by Senator Marcellino, Senate Print 623,
15 an act to amend the Vehicle and Traffic Law,
16 in relation to the number of prior
17 suspensions.

18 ACTING PRESIDENT MARCELLINO:
19 Read the last section.

20 THE SECRETARY: Section 3. This
21 act shall take effect on the first of
22 November.

23 ACTING PRESIDENT MARCELLINO:
24 Call the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 57.

2 ACTING PRESIDENT MARCELLINO: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 477, by Senator DeFrancisco, Senate Print
6 2051, an act to amend the Vehicle and Traffic
7 Law, in relation to enacting.

8 ACTING PRESIDENT MARCELLINO:
9 Read the last section.

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

12 ACTING PRESIDENT MARCELLINO:
13 Call the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 57.

16 ACTING PRESIDENT MARCELLINO: The
17 bill is passed.

18 Senator Skelos, may we return to
19 the previously laid aside bill?

20 SENATOR SKELOS: On the
21 noncontroversial calendar, if we could return
22 to Calendar Number 239.

23 ACTING PRESIDENT MARCELLINO: The
24 Secretary will read.

25 THE SECRETARY: Calendar Number

1 239, by Senator Morahan, Senate Print 924, an
2 act to amend the Mental Hygiene Law, the
3 Social Services Law, and the Education Law.

4 ACTING PRESIDENT MARCELLINO:
5 Read the last section.

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

8 ACTING PRESIDENT MARCELLINO:
9 Call the roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes, 57.

12 ACTING PRESIDENT MARCELLINO: The
13 bill is passed.

14 Senator Skelos, that completes the
15 noncontroversial calendar.

16 SENATOR SKELOS: Thank you,
17 Mr. President.

18 If we could return to reports of
19 standing committees, there's a report of the
20 Finance Committee at the desk. I ask that it
21 be taken up at this time.

22 ACTING PRESIDENT MARCELLINO:
23 Reports of standing committees.

24 The Secretary will read the report
25 of the Finance Committee.

1 THE SECRETARY: Senator O.
2 Johnson, from the Committee on Finance,
3 reports the following nominations:

4 As Commissioner of the Office of
5 Parks, Recreation and Historic Preservation,
6 Carol Ash, of Rensselaerville.

7 SENATOR SKELOS: Move the
8 nomination.

9 ACTING PRESIDENT MARCELLINO: The
10 question is on the nomination of Carol Ash, of
11 Rensselaerville, to serve at the pleasure of
12 the Governor as Commissioner of Parks,
13 Recreation and Historic Preservation.

14 Senator Morahan, on the nomination.

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

17 I rise in support of this
18 nomination and the confirmation process for
19 Commissioner Ash, who I've known as the
20 executive director of the Palisades State Park
21 System in the Hudson Valley. Her activities
22 there really went above and beyond, and I
23 think she exemplifies the caring nature and
24 the stewardship of the park system so sorely
25 needed in the State of New York.

1 And I want to congratulate the
2 Governor for this nomination. I think it's
3 one of the finest nominations that we've had
4 in quite a while. And therefore I am in full
5 support of the confirmation of Carol Ash as
6 our commissioner of the Office of Parks,
7 Recreation and Historic Preservation.

8 Thank you. Good luck, Carol.

9 ACTING PRESIDENT MARCELLINO:
10 Senator Flanagan.

11 SENATOR FLANAGAN: Thank you,
12 Mr. President. On the nomination.

13 I'm going to take a slightly
14 different tack from my colleague and friend
15 Senator Morahan. I want to offer some
16 comments on this nomination, and this is
17 frankly a departure for me because I'm going
18 to be voting no on this nomination. And I'm
19 going to explain why, because I think I have
20 some important reasons, not only for the
21 people in the communities that I represent but
22 I think there are broader implications for
23 State Parks and our parks policy as a whole.

24 And I have met with Commissioner
25 Ash, I have met with members of the Spitzer

1 administration on an issue that is
2 extraordinarily important in the area that I
3 represent, and that involves a state park.
4 It's Nissequogue State Park. It's in the
5 Kings Park community. It's a park that has
6 now been enlarged and enhanced with months and
7 months and months of effort.

8 And the problem that I have -- and
9 this is a broad thing that applies to
10 everybody in this chamber. The Spitzer
11 administration has not made a firm commitment
12 to maintain that property as a park. There is
13 a prospect and a possibility that they are
14 looking to overturn that land as a park.
15 That's bad for everybody. It's bad for
16 everybody in this chamber, it's bad for our
17 constituents, and it's certainly not good for
18 the people that I represent.

19 And I can't stand here in good
20 conscience and support the nomination of a
21 designee of the Governor when I don't feel
22 that I've gotten detailed answers, I don't
23 feel that we've gotten straight answers on an
24 issues that is extraordinarily important.

25 I've spent hours and hours and

1 hours working on this issue. And now, we
2 still today, almost four months into the
3 administration, lack clarity. And it's not
4 for lack of trying, because we've tried. I've
5 written, I've called, I've asked. And I can't
6 stand before you today and provide any detail
7 or any real substance on this issue.

8 I am hopeful that some of the
9 things that Tom Morahan said turn out to be
10 accurate. I am hopeful that as we move
11 forward that we will find a resolution to this
12 and other important issues involving parks.

13 For me personally, I simply cannot
14 support this nomination. But I will say this.
15 I want to be clear that this issue that I have
16 been working on is important to everybody --
17 from an environmental standpoint, from a parks
18 standpoint, from a legislative policy
19 standpoint.

20 I pledge to work with the
21 commissioner and the Spitzer administration to
22 get this done the right way. And to get it
23 done the right way is going to require time,
24 effort, money and a commitment to maintain
25 this property as a park.

1 Mr. President, I will be voting no
2 on this nomination.

3 ACTING PRESIDENT MARCELLINO:
4 Thank you, Senator Flanagan.

5 Anyone else wish to be heard on the
6 nominee?

7 The question is on the nomination
8 of Carol Ash, of Rensselaerville, for
9 Commissioner of the Office of Parks,
10 Recreation and Historic Preservation. All in
11 favor signify by saying aye.

12 (Response of "Aye.")

13 ACTING PRESIDENT MARCELLINO: All
14 opposed.

15 (Response of "Nay.")

16 ACTING PRESIDENT MARCELLINO:
17 Carol Ash is hereby confirmed as the
18 commissioner.

19 Congratulations, Commissioner Ash.

20 (Applause.)

21 ACTING PRESIDENT MARCELLINO: The
22 Secretary will read.

23 THE SECRETARY: As superintendent
24 of the Insurance Department, Eric R. Dinallo,
25 of New York City.

1 ACTING PRESIDENT MARCELLINO: The
2 question is on the nomination of Eric R.
3 Dinallo, of New York City, to serve as the
4 Superintendent of the Insurance Department.

5 SENATOR MORAHAN: Move the
6 nomination.

7 ACTING PRESIDENT MARCELLINO:
8 Senator Seward.

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

11 I'm delighted to stand to support
12 the confirmation of Eric Dinallo to be our
13 next Superintendent of Insurance.

14 Eric Dinallo comes before this body
15 experienced and well equipped to serve as our
16 Superintendent of Insurance. He's had
17 experience both in the private sector related
18 to many of the issues that he will be
19 confronting as our superintendent, and he's
20 also had a distinguished career in the public
21 sector as well, most notably as chief of the
22 Securities Bureau of the Attorney General's
23 office.

24 From my discussions with
25 Mr. Dinallo and his appearance before the

1 Insurance Committee earlier this week, I
2 believe that he will bring a fresh and
3 innovative approach to insurance regulation in
4 the State of New York.

5 And he also fully understands the
6 importance of maintaining New York as the
7 premier global financial services leader that
8 we have been and the importance of the
9 insurance industry in that regard. And also,
10 in getting us there and keeping us there, the
11 need for modernization in terms of the
12 regulation of insurance. That's paramount.

13 He also fully understands that the
14 Insurance Department is truly the voice of the
15 consumer, who is in great need of insurance in
16 the state. Whether it be health, P&C, or life
17 or any other type of insurance, the consumer's
18 interest has to be paramount because people
19 seek insurance for their financial security.
20 And it's a great need for individuals,
21 businesses, other entities in the State of
22 New York, very, very important to our
23 financial security.

24 So I look forward to working with
25 Eric Dinallo as our Superintendent of

1 Insurance on many of the challenges that face
2 us in the insurance world -- health insurance,
3 homeowners, auto, life, the list goes on. But
4 I look forward to working with Eric Dinallo.
5 I think he will be a partner with this house
6 in helping to move our state forward, to
7 protect our people and our businesses and
8 other entities that are so important to us.

9 So I rise to support this
10 confirmation, Mr. President, and also to
11 publicly congratulate Eric Dinallo and his
12 family on this very important day.

13 ACTING PRESIDENT MARCELLINO:

14 Thank you, Senator Seward.

15 Senator DeFrancisco, on the
16 nomination.

17 SENATOR DeFRANCISCO: I rise to
18 support the nomination and the nominee.

19 His qualifications and in fact the
20 qualifications of each of the nominees today
21 are really superior. We should commend the
22 Governor for these fine nominations that he's
23 presented to us. I was truly impressed with
24 the breadth of knowledge of Mr. Dinallo in so
25 many different topics relating to the

1 insurance field, and I think that's essential
2 to have that knowledge.

3 I was also very pleased to hear of
4 his obvious concern in his prepared remarks or
5 his initial remarks concerning the consumers.
6 Because as Senator Seward said, the Insurance
7 Department has to look out for consumers.
8 They don't have power in the system. And if
9 insurance carriers are not acting properly,
10 the Insurance Department is sometimes the only
11 economic place that they can go to without
12 having to hire a lawyer and spend more money
13 than the claim may be worth.

14 And I'm convinced, based upon the
15 sincerity of his answers, that he is going to
16 look closely into the proper remedies for
17 unfair claims practices that I think occur all
18 too often in this field.

19 In addition, another area that's
20 really been talked about for a long period of
21 time is how to regulate viatical settlements
22 and what the approach should be statutorily.
23 And judging from his involvement in the
24 long-awaited reform of workers' compensation,
25 where it got done in the first hundred days,

1 and he was involved in that, I'm certain that
2 some of these issues can be resolved, like the
3 viatical settlement issue as well. It's time
4 for solutions to some of these problems, and
5 I'm convinced that he is going to be able to
6 lead the way to make that happen.

7 So I am happy to stand in support
8 of this nominee and wish him the best in his
9 new position.

10 ACTING PRESIDENT MARCELLINO:

11 Thank you, Senator DeFrancisco.

12 Senator Breslin.

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

15 I agree with all the comments of my
16 colleagues Senator Seward and Senator
17 DeFrancisco. But it's important in insurance
18 to have full disclosure, and Senator
19 DeFrancisco didn't acknowledge the fact that
20 he also has a Duke degree, as does our
21 candidate for superintendent.

22 SENATOR DeFRANCISCO: I didn't
23 know that.

24 SENATOR BRESLIN: So it goes
25 along with everything you said.

1 But, you know, when you look at the
2 background of Eric Dinallo, to be the managing
3 director of regulatory affairs at Morgan
4 Stanley or the general counsel of the Willis
5 Group, which is a multinational insurance
6 brokerage company, and then to be at the
7 highest levels of the State Attorney General,
8 Eric gets it. And when he came before the
9 Insurance Committee as well as the Finance
10 Committee, already, you know, he knows how to
11 strike the balance between protecting the
12 consumer and creating a climate for
13 competitiveness throughout the insurance
14 industry.

15 So I think that Governor Spitzer
16 has really hit the mark with Eric Dinallo.
17 He's brought with him an excellent staff,
18 which will be coupled with the career people
19 in the Insurance Department. And I look
20 forward to the coming years being very bright
21 ones for Superintendent of Insurance Eric
22 Dinallo.

23 My congratulations.

24 ACTING PRESIDENT MARCELLINO:

25 Thank you, Senator Breslin.

1 Senator Stachowski.

2 SENATOR STACHOWSKI: Yes,
3 Mr. President, thank you.

4 I also rise to second the
5 nomination of Mr. Dinallo. I think he'll make
6 an excellent superintendent.

7 I think at the committee meeting,
8 the Insurance Committee meeting, he answered a
9 lot of the questions. He answered some more
10 today. I think along with what Senator
11 Breslin said, I too picked up the same concept
12 that he's going to be there for the people
13 buying the insurance, but he's also got an
14 interest in making sure that the insurance
15 industry stays healthy in New York State also
16 and we don't have people bailing out of the
17 state.

18 So I think that's a great mix. I
19 think his background was outstanding. We
20 won't say anything about the Duke degree,
21 because we all know about the character flaws
22 that DeFrancisco has, and we're hoping that
23 it's not a Duke thing.

24 (Laughter.)

25 SENATOR STACHOWSKI: I just

1 wanted to see if John was still listening.

2 The one thing I can say, though, is
3 that I'm glad at Finance Mr. Dinallo didn't
4 bring his charts and his pens. Because I
5 think he would have got through Finance
6 yesterday if he didn't draw all those pictures
7 at the Insurance Committee meeting.

8 All kidding aside, I'm glad to get
9 up and second this nomination.

10 I was also taken by the fact that
11 he was on top of some issues that Senator
12 Hannon brought up in the health insurance
13 area, which are important to all of us and one
14 of the premier things that we're all concerned
15 about, the rapid growth of health insurance
16 coverages, et cetera.

17 So I congratulate Mr. Dinallo, I
18 congratulate the Governor on a fine
19 nomination, and I look forward to working with
20 him in the future.

21 ACTING PRESIDENT MARCELLINO:

22 Thank you, Senator.

23 Senator Schneiderman.

24 SENATOR SCHNEIDERMAN: Thank you,
25 Mr. President. I'm also proud to stand in

1 support of this nomination.

2 I will not mention Duke University,
3 but I'm proud to support Mr. Dinallo even
4 though he worked at Paul Weiss Rifkind Wharton
5 and Garrison with many of my friends.

6 He is a fine attorney. He is
7 exactly what we need in this state. This
8 state is behind the country in our regulation
9 of the insurance industry. This state is
10 behind states all across America in the
11 efforts underway to reduce insurance rates so
12 that our businesses are more competitive and
13 so that people can afford to live here.

14 We hear a lot in debate about the
15 competitiveness of our state and about the
16 affordability of our state. One of the most
17 important areas we can address as a Senate
18 this year, as a Legislature this year, is to
19 give Mr. Dinallo the support he needs to
20 reform our insurance laws, to bring rates
21 down, to make insurance companies more
22 accountable and more responsible.

23 Other states have Public Service
24 Commission-type proceedings so they can get
25 into the books and see what the insurance

1 companies are earning. Other states require
2 preapproval for rate increases. These are the
3 kinds of reforms I look forward to working
4 with Mr. Dinallo on.

5 And I will tell you, I'm sorry
6 that -- I realize there are some other issues
7 in the air in Albany. I'm sorry it's taken
8 this long for him to be confirmed, because I
9 happened by coincidence to sit with him at the
10 inauguration at the beginning of this year,
11 and he was badgering me from day one about
12 ideas for insurance reforms.

13 He's ready to go. He's ready to
14 get the work done. Let's give him the support
15 he needs. And I'm proud to stand in support
16 of his nomination.

17 ACTING PRESIDENT MARCELLINO:

18 Thank you, Senator.

19 Anyone else wishing to be heard?

20 Seeing none, the question is on the
21 nomination of Eric R. Dinallo, of New York
22 City, to serve as Superintendent of the
23 Insurance Department. All in favor signify by
24 saying aye.

25 (Response of "Aye.")

1 ACTING PRESIDENT MARCELLINO:

2 Opposed, nay.

3 (No response.)

4 ACTING PRESIDENT MARCELLINO:

5 Congratulations, Mr. Dinallo, and good luck in
6 your future.

7 (Appause.)

8 ACTING PRESIDENT MARCELLINO: The
9 Secretary will read.

10 THE SECRETARY: As Superintendent
11 of the Banking Department, Richard H. Neiman,
12 of Rye.

13 ACTING PRESIDENT MARCELLINO:
14 Senator Robach.

15 SENATOR ROBACH: Mr. President,
16 could we move the nomination of the
17 Superintendent of the Banking Department and
18 please recognize Senator Farley.

19 ACTING PRESIDENT MARCELLINO:
20 Senator Farley.

21 SENATOR FARLEY: Thank you very
22 much, Mr. President.

23 You know, I'm absolutely pleased
24 beyond belief to nominate and to confirm this
25 man for Superintendent of Banks. I've been on

1 the Banking Committee for over 30 years and
2 chairman for over a decade, and this is one of
3 the most qualified people that we've ever had
4 for superintendent.

5 He's a graduate of Emory Law School
6 and American University in Washington, where I
7 went to law school. He has had a resume that
8 is incredible starting, with the Office of the
9 Comptroller of the Currency, to Citicorp, to
10 Price Waterhouse and to TD Waterhouse Group,
11 and also was president and chief executive
12 officer of the TD Bank USA.

13 Let me just say this, that not only
14 is he a supporter of the dual banking system
15 and concerned with keeping New York as the
16 financial capital of the world, Richard Neiman
17 is eminently qualified and somebody that I
18 think really is taking on a very, very
19 difficult job and one that is quite a
20 sacrifice for public service.

21 And I think that that would lead me
22 to say that up in the gallery is his lovely
23 wife Eileen McCarthy Neiman, who is a graduate
24 of Albany, right here in town, and served as a
25 Senate Capitol tour guide, and so she's part

1 of the family here.

2 But more important is his two
3 children that are up there, Heather -- would
4 you wave, Heather? -- and Hailey. I just want
5 to tell you a little story about Heather and
6 Hailey.

7 Hailey, his oldest daughter, I
8 believe who is nine, said to him: "Daddy, are
9 you going to be president of a bank in your
10 new job?" And he said no. She says: "Daddy,
11 are you going to make more money in your new
12 job?" He said no. She says: "Daddy, I think
13 you should think about it."

14 (Laughter.)

15 SENATOR FARLEY: Which brings me
16 to the point that our superintendent is really
17 serving in public service. You don't take
18 this job for the money. Because certainly his
19 career has been sparkling, and he's earned a
20 lot more money than he'll ever earn as the
21 Superintendent of Banks.

22 I'm terribly, terribly grateful for
23 him, grateful to the Governor for being able
24 to recognize and get somebody to serve with
25 his qualifications. We're thrilled to be able

1 to support this nomination, because the State
2 of New York is blessed to have somebody that
3 is willing to serve in public service at this
4 very, very important time. Because these are
5 times when particularly the dual banking
6 system and the State of New York is under
7 attack, if you will, by the federal government
8 and taking over our banking system. And we've
9 got a man there that really knows how to keep
10 our banks sound and safe.

11 And I'm pleased to support this
12 nominee.

13 ACTING PRESIDENT MARCELLINO:

14 Thank you, Senator.

15 Senator Fuschillo, on the
16 nomination.

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

19 Let me join with my distinguished
20 colleague and chairman of the Banking
21 Committee, Senator Farley, in congratulating
22 the nominee and the Governor for putting forth
23 the nominee.

24 But I ask that as you go forward,
25 to do something that I haven't seen in my nine

1 years in the Senate from any banking
2 superintendent: Protect the consumers.
3 They're getting fee'd to death from the banks.
4 They're getting penalized to death from the
5 banks.

6 I think with the issue of credit
7 cards and banking fees, consumer debt has just
8 risen in this state and throughout this
9 nation. So whatever limited jurisdiction you
10 have over banks in New York State, I ask that
11 you take a hard look at how the Banking
12 Department can better protect the consumers of
13 New York State.

14 I wish you well. I congratulate
15 you. And I look forward to working with you.

16 Thank you, Mr. President.

17 ACTING PRESIDENT MARCELLINO:

18 Thank you, Senator.

19 Senator Stachowski.

20 SENATOR STACHOWSKI: Mr.

21 President, I also rise to second the
22 nomination of Mr. Neiman for Superintendent of
23 Banks.

24 Based on Senator Farley's comments
25 about his performance in the committee and

1 Senator Farley's interest in keeping some
2 New York-chartered banks, which I happen to
3 share with him, I think it's a great
4 nomination.

5 I think his background is
6 impeccable. We're very fortunate that the
7 Governor was able to get somebody like this to
8 take this position.

9 And his awareness of the issues
10 that concern my area in the house flipping and
11 mortgage situations is very important, as well
12 as the situation with one of our local banks
13 that's a big player in the State of New York
14 and that he's going to be looking into also.
15 It certainly piqued my interest that he was
16 already at that point and ready to move
17 forward.

18 And I look forward to working with
19 him in the years ahead, and I congratulate
20 both he and the Governor on his appointment.

21 Thank you.

22 ACTING PRESIDENT MARCELLINO:

23 Thank you, Senator.

24 Senator Oppenheimer.

25 SENATOR OPPENHEIMER: Well, I

1 join in the accolades.

2 The new commissioner is a resident
3 in my Senate district. And while we have
4 heard about the superb skills he brings to the
5 job, I want to note that he has been involved
6 in many human-service extracurricular
7 activities, for which he receives no money but
8 only through the goodness of his heart does he
9 participate in these. And these are various
10 organizations that assist children and
11 families and people in need.

12 And I want us to know that we not
13 only have someone who's extremely competent,
14 but we also have someone who's extremely
15 caring.

16 I thank you for that.
17 Congratulations.

18 ACTING PRESIDENT MARCELLINO:
19 Anyone else wishing to be heard?

20 Seeing none, the question is on the
21 nomination of Richard H. Neiman, of Rye, to
22 serve as Superintendent of the Banking
23 Department. All in favor signify by saying
24 aye.

25 (Response of "Aye.")

1 ACTING PRESIDENT MARCELLINO:

2 Opposed, nay.

3 (No response.)

4 ACTING PRESIDENT MARCELLINO:

5 Congratulations, Superintendent Neiman.

6 (Applause.)

7 ACTING PRESIDENT MARCELLINO: As
8 was previously mentioned by Senator Farley,
9 Superintendent Neiman is joined by his wife,
10 Eileen, and daughters Heather and Hailey.

11 And whichever daughter asked that
12 question, keep on asking.

13 (Laughter.)

14 ACTING PRESIDENT MARCELLINO: The
15 Secretary will read.

16 THE SECRETARY: As Commissioner
17 of the State Civil Service Commission, Nancy
18 G. Groenwegen, of Glenmont.

19 ACTING PRESIDENT MARCELLINO:
20 Senator Robach.

21 SENATOR ROBACH: Yes,
22 Mr. President. I am very happy to move the
23 nomination of Nancy Groenwegen for the
24 Commissioner of Civil Service.

25 As the chairman of the Civil

1 Service and Pension Committee, I have gotten
2 to know the nominee fairly well. In addition
3 to her vast experience, great resume, law
4 career, I can assure you she is someone who
5 wants to reach out, already has reached out to
6 the members of this body, not only on the
7 committee but above and beyond. And she is
8 someone who really gets the correlation
9 between the quality of state employees, the
10 importance of civil service, and how it
11 relates to serving all our constituencies in
12 public service.

13 And so I want to not only applaud
14 the Governor on this very qualified nomination
15 but be the first to congratulate her, her
16 husband and son on this great occasion. And I
17 am looking forward to working collaboratively
18 to do good things for some time to come.

19 Thank you, Mr. President.

20 ACTING PRESIDENT MARCELLINO:

21 Thank you, Senator.

22 Senator Little, on the nomination.

23 SENATOR LITTLE: Thank you,
24 Mr. President.

25 It's an honor for me to stand and

1 second the nomination of Nancy Gleason
2 Groenwegen, because Nancy Gleason grew up in
3 Hudson Falls, New York, in Washington County,
4 and is a graduate of Hudson Falls High School.
5 And I for one am very proud to have her be in
6 this position as Commissioner of Civil
7 Service.

8 She's a wonderful person to be in
9 this position. The Governor certainly has
10 selected someone who has a wealth of
11 background that she is bringing to the table,
12 working in many different agencies throughout
13 the state government as well as for the School
14 Boards Association and certainly knows her way
15 around the private sector as well.

16 So I'm sure everyone in Hudson
17 Falls will be delighted to know that their
18 Commissioner of Civil Service is a graduate of
19 Hudson Falls High School as well as a graduate
20 of our own SUNY Albany, but a lawyer and a
21 person who has a wonderful reputation for
22 honesty, integrity and very hard work.

23 I congratulate her, her husband,
24 and her son, who are with us today, and I look
25 forward to working with her and getting her

1 back into Hudson Falls so we can show off.

2 Thank you.

3 ACTING PRESIDENT MARCELLINO:

4 Senator Breslin, on the nomination.

5 SENATOR BRESLIN: Thank you,
6 Mr. President.

7 In all deference, when Nancy goes
8 back to Hudson Falls, she has to explain that
9 she now lives in Albany County, which is my
10 district.

11 Nancy, when you meet her and talk
12 with her and look at her resume, you can't
13 help but be impressed with her intelligence,
14 her enthusiasm, and over a quarter of a decade
15 dealing with civil service and labor issues at
16 a very, very high level.

17 And I coincidentally had the
18 occasion to recently talk with a good friend
19 of mine who's one of her former bosses, it was
20 the Commissioner of Labor, John Hudacs. And I
21 can honestly say that John's face lit up in
22 talking about Nancy. And he called her the
23 finest public servant that he has ever worked
24 with.

25 And I believe, again, it's a great

1 choice by this Governor, it's somebody who's
2 going to be a star in the Civil Service
3 Commission. And I applaud her nomination and
4 look forward to working with her in the coming
5 years.

6 ACTING PRESIDENT MARCELLINO:
7 Thank you, Senator.

8 Senator Savino.

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

11 I also want to stand and commend
12 the Governor for his nomination of Nancy
13 Groenwegen.

14 You know, the civil service merit
15 system has been the method by which tens of
16 thousands of New Yorkers have moved from
17 poverty to the middle class. It has not just
18 built careers, it's built whole neighborhoods.
19 It is a system that is necessary for the
20 adequate function of government.

21 And I am so pleased that the
22 Governor has nominated this young woman who
23 has so much experience and so much knowledge
24 about the intricacies of the civil service
25 merit system.

1 She came to my office a few weeks
2 ago and we sat there and we had a discussion
3 as only two policy wonks on civil service can
4 have. And it was at that point that I
5 realized that this system that I believe in so
6 strongly is going to be in very capable hands.
7 She understands just how important it is for
8 the administration of government, and I could
9 not be more pleased with the appointment of
10 Nancy Groenwegen.

11 So congratulations, and I look
12 forward to working with you for many years to
13 come.

14 ACTING PRESIDENT MARCELLINO: Any
15 other Senator wishing to be heard?

16 Seeing none, the question is on the
17 nomination of Nancy G. Groenwegen, of
18 Glenmont, to serve as Commissioner of the
19 State Civil Service Commission.

20 All in favor signify by saying aye.

21 (Response of "Aye.")

22 ACTING PRESIDENT MARCELLINO:
23 Opposed, nay.

24 (No response.)

25 ACTING PRESIDENT MARCELLINO:

1 Congratulations, Commissioner Groenwegen.

2 (Applause.)

3 ACTING PRESIDENT MARCELLINO: The
4 commissioner is joined in the balcony by her
5 husband, Paul, and son, Philip.
6 Congratulations once again.

7 Senator Robach.

8 SENATOR ROBACH: Yes,
9 Mr. President. Is there any other business at
10 the desk?

11 ACTING PRESIDENT MARCELLINO:
12 Yes, Senator. Senator Little, I believe, has
13 a motion.

14 SENATOR LITTLE: Thank you,
15 Mr. President.

16 On behalf of Senator Padavan, on
17 page number 32 I offer the following
18 amendments to Calendar Number 476, Senate
19 Print Number 2045, and ask that said bill
20 retain its place on the Third Reading
21 Calendar.

22 ACTING PRESIDENT MARCELLINO: The
23 amendments are received and adopted, and the
24 bill will retain its place on the Third
25 Reading Calendar.

1 Senator Robach.

2 SENATOR ROBACH: Yes,
3 Mr. President. If you could recognize Senator
4 Krueger.

5 ACTING PRESIDENT MARCELLINO:
6 Senator Krueger is recognized.

7 SENATOR LIZ KRUEGER: Thank you,
8 Mr. President.

9 I believe I have a motion at the
10 desk. I would like to have it called up at
11 this time.

12 ACTING PRESIDENT MARCELLINO: The
13 Secretary will read.

14 THE SECRETARY: Senate Print
15 1257, by Senator L. Krueger, an act to amend
16 the Public Health Law.

17 SENATOR LIZ KRUEGER: Thank you,
18 Mr. President.

19 I'd like to move my bill today to
20 the floor for a debate, which would create the
21 Reproductive Cloning Prohibition and Stem Cell
22 Research Act.

23 Over one out of three Americans,
24 128 million people, suffer from crippling
25 physical, psychological and economic burdens

1 of chronic, degenerative and acute diseases,
2 including, to name but a few, diabetes,
3 Parkinson's, cancers, Alzheimer's disease.
4 The cost of treatment and lost productivity
5 constitute hundreds of billions of dollars
6 every year to our economy. And the economic
7 costs of these diseases pale in comparison to
8 the extreme loss of human life and the
9 suffering associated with these conditions.

10 In 2007 we know for a fact, through
11 science, that stem cell research offers
12 immense promise for developing new medical
13 therapies for these debilitating diseases and
14 is a critical means to explore fundamental
15 questions of biology. Stem cell research
16 could lead us to unprecedented treatments and
17 potential cures for these diseases. Already
18 we know from around the world that the
19 exploration of stem cell research has helped
20 researchers and physicians target cancer
21 cells, develop, in lab models, new cells that
22 are healthy for people who currently suffer
23 from these dreaded and often terminal
24 illnesses.

25 President Bush's ban on federal

1 financing in 2001 for most embryonic stem cell
2 research has severely delayed the cycle of
3 breakthroughs that could result in cures for
4 many of these diseases from which Americans
5 continue to suffer. Again, one out of three
6 of us have some type of disease that in fact
7 stem cell research might lead to a cure for.

8 New York State has historically
9 been the haven for open scientific inquiry and
10 technological innovation. With the commitment
11 of public and private resources, New York
12 State has become a world leader in biomedicine
13 and biotechnology. And yet in 2007 in
14 New York State we have still not acted.

15 Nine states already have acted to
16 permit embryonic stem cell research:
17 California, Connecticut, Maryland,
18 Massachusetts, Iowa, and New Jersey passed
19 legislation. Missouri passed a constitutional
20 amendment permitting embryonic stem cell
21 research when their legislature wouldn't act.
22 The governor of Illinois issued an executive
23 order to allow such research. The Wisconsin
24 governor provided state funding for the
25 creation of an institute to produce blood

1 products made from embryonic stem cells.

2 Our own budget that we passed two
3 weeks ago makes us the sixth state to provide
4 financing for stem cell research, creating the
5 second largest state research fund in the
6 country, \$600 million over the next 11 years.
7 But absent legislation such as my bill, S1257,
8 or some other bill which makes explicit what
9 can and cannot be done within genetic research
10 using stem cells, we leave too much gray area
11 which will hinder scientific exploration,
12 discourage private investment, and risk
13 allowing inappropriate activity such as human
14 cloning.

15 New York State must take action now
16 in supporting stem cell research which could
17 result in unprecedented treatments for
18 diseases and the development of affordable and
19 accessible treatments for health threats
20 throughout New York State and the world.

21 S1257 authorizes the conduct of
22 stem cell research in New York State, requires
23 informed consent for research purposes, and
24 prohibits -- again, explicitly prohibits --
25 human reproductive cloning, with criminal

1 penalties attached.

2 The bill also addresses numerous
3 ethical and policy concerns that have been
4 raised regarding the use of embryonic stem
5 cells for medical research, through the
6 creation of a Commission on Cloning and
7 Therapeutic Research consisting of 12 members.
8 Two members shall be physicians, one shall be
9 a healthcare provider other than a physician,
10 one member shall be a women's health advocate,
11 one member shall be a current or former
12 patient involved in fertility treatments, two
13 shall be current patients under care for two
14 different disease disorders, one shall be a
15 scientist involved directly in stem cell
16 research, one member shall be a public health
17 attorney or advocate, two shall be scientists
18 involved in therapeutic stem cell cloning
19 research, and one shall be a medical ethicist.

20 We can do this right in New York
21 State. We've already put the money in to do
22 it. And I argue this Legislature has an
23 obligation and should have a motivation to
24 want to make sure that as we move forward we
25 move forward carefully, we use our legislative

1 authority to be players in making sure what
2 happens in New York State is for the right
3 reasons and not the wrong reasons.

4 I urge my colleagues to support my
5 motion today and to move us forward on the
6 important issue of stem cell research in our
7 state.

8 Thank you, Mr. President.

9 ACTING PRESIDENT MARCELLINO: All
10 those Senators in favor of the petition out of
11 committee please signify by raising their
12 hands.

13 THE SECRETARY: Those recorded in
14 agreement are Senators Adams, Breslin, Connor,
15 Duane, Gonzalez, Hassell-Thompson, C. Johnson,
16 Klein, L. Krueger, C. Kruger, Montgomery,
17 Oppenheimer, Parker, Sabini, Savino,
18 Schneiderman, Serrano, Smith, Stavisky,
19 Stewart-Cousins, Thompson and Valesky.

20 ACTING PRESIDENT MARCELLINO: The
21 petition is not agreed to.

22 Senator Schneiderman.

23 SENATOR SCHNEIDERMAN: Thank you,
24 Mr. President.

25 I have a motion at the desk. I

1 would like to have it called up at this time
2 and be heard on the motion.

3 ACTING PRESIDENT MARCELLINO: The
4 Secretary will read.

5 THE SECRETARY: Senate Print
6 2344, by Senator Schneiderman, an act to amend
7 the Education Law.

8 SENATOR SCHNEIDERMAN: Thank you.
9 Mr. President, the bill that I'm
10 attempting to bring to the floor today is an
11 important piece of legislation that would
12 simply require pharmacists to comply with the
13 directives of a doctor and dispense
14 prescriptions when they are lawfully written
15 and lawfully presented by a patient.

16 We have a problem in this country
17 that has become all the more clear today, in
18 that there are some people who attempt to put
19 their own ideology ahead of the medical
20 decision of a doctor and the desires of a
21 patient; in this case, women patients.

22 There are some pharmacies that have
23 been refusing to dispense emergency
24 contraception, purporting to have an exception
25 to the rule that pharmacists have to dispense

1 lawful prescriptions provided to them by a
2 doctor on the basis of some sort of a
3 statement of principle.

4 This is wrong. Pharmacists aren't
5 just free agents, they're licensed by the
6 State of New York. And this legislation would
7 require them to follow the rules that have
8 been imposed in other states to ensure that
9 the regulations of pharmaceuticals are carried
10 out in accordance with the instructions of
11 doctors.

12 But I have to say that the need for
13 this legislation and for other legislation
14 protecting the right of freedom of choice has
15 become much more dramatic. I don't know if
16 all of my colleagues are aware, but early this
17 morning the United States Supreme Court issued
18 a decision in a case called Gonzales v.
19 Carhart, which for the first time since the
20 decision in Roe v. Wade approves a ban on
21 certain types of abortions with no exception
22 for the health of the woman.

23 The law in this country was
24 absolutely clear up until today that medical
25 science trumped ideology when it came to

1 patient care and that a doctor could not be
2 forced to perform a procedure that doctor
3 believes to be less safe because some
4 politicians, some right-wing ideologues, some
5 theocrats tell him: We do not care about the
6 health of your patient.

7 Understand this. These are
8 procedures that are performed that are
9 recommended in certain circumstances by the
10 American College of Gynecologists. When a
11 doctor is performing an abortion, the abortion
12 is going forward anyway. This decision of the
13 Supreme Court says: You are forced, Doctor,
14 to put your professional reservations, your
15 professional beliefs and obligations on hold
16 and follow the dictates of a group of
17 politicians who say choose the less safe
18 procedure.

19 This is the first time in the
20 history of the United States any medical
21 procedure has been treated in this manner.

22 And I assure you, ladies and
23 gentlemen, that the ideological fervor of the
24 far right on this will produce a kind of
25 backlash that maybe is what we need in this

1 country. Because the overwhelming majority of
2 New Yorkers believe women have a right to
3 choose. The overwhelming majority of
4 New Yorkers believe that women have a
5 fundamental right to control their own bodies.
6 And the overwhelming majority of New Yorkers
7 believe that doctors cannot be told by
8 politicians to perform procedures that are
9 less safe for their patients because of some
10 theocratic musings in Congress.

11 I commend to you the dissent by
12 Justice Ginsburg -- this was a 5-4 decision.
13 This is George Bush's Supreme Court, and
14 anyone who pretends to be pro-choice and
15 supported George Bush, I ask you to take a
16 look in the mirror today. But I commend to
17 you the dissent of Justice Ginsburg, who noted
18 a prior ruling of the court that said
19 something very important: Liberty finds no
20 refuge in a jurisprudence of doubt. Liberty
21 finds no refuge in a jurisprudence of doubt.

22 And the Supreme Court today has
23 created doubt in the mind of every doctor in
24 the State of New York as to what is
25 permissible and what is not permissible. So

1 it's our obligation here as a Legislature to
2 provide clarity for the doctors, to make sure
3 we define what is permissible, to make sure
4 that we provide the support and the education
5 so that no woman is forced to undergo an
6 unsafe procedure when a safe procedure is
7 available because the right-wing ideologues in
8 Washington tell her doctor he's not permitted
9 to put the patient first.

10 That's what happened today. This
11 is a dark day for all who believe in
12 fundamental human freedom in the State of
13 New York. This is a dark day for those who
14 believe science should trump theology.

15 And I think it would be perfectly
16 appropriate as a statement of our discontent
17 with this ruling and with the Congressional
18 action that led to this ruling for us to bring
19 to the floor the bill before us now on this
20 motion which would require pharmacists to
21 comply with the rules of doctors, would once
22 again put medical science over ideology, would
23 put the freedom and fundamental right to
24 control her own body of a woman above
25 theocracy and in a small way take a step to

1 undo the tremendous harm that was done today
2 by the Supreme Court.

3 I hope everyone will vote in
4 support of this motion, Mr. President.

5 ACTING PRESIDENT MARCELLINO:
6 Thank you, Senator.

7 All those Senators in favor of the
8 petition out of committee please signify by
9 raising your hands.

10 THE SECRETARY: Those recorded in
11 agreement are Senators Adams, Breslin, Connor,
12 Duane, Gonzalez, Hassell-Thompson, C. Johnson,
13 Klein, L. Krueger, C. Kruger, Montgomery,
14 Oppenheimer, Parker, Sabini, Savino,
15 Schneiderman, Serrano, Smith, Stavisky,
16 Stewart-Cousins, Thompson and Valesky.

17 ACTING PRESIDENT MARCELLINO: The
18 petition is not agreed to.

19 Senator Robach.

20 SENATOR ROBACH: Yes,
21 Mr. President. There being no further
22 business, I move we adjourn until Monday,
23 April 23rd, at 3:00 p.m., intervening days
24 being legislative days.

25 ACTING PRESIDENT MARCELLINO: On

1 motion, the Senate stands adjourned until
2 Monday, April 23rd, at 3:00 p.m., intervening
3 days being legislative days.

4 (Whereupon, at 1:53 p.m., the
5 Senate adjourned.)

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