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

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.

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: Mr. President, if we could adopt the Resolution Calendar.

ACTING PRESIDENT MARCELLINO: All in favor of adopting the Resolution Calender signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: The Resolution Calendar is adopted.

Senator Skelos.

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

ACTING PRESIDENT MARCELLINO: The

Secretary will read.

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

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

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

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

"WHEREAS, The SUNY Oswego Lakers

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

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

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

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

"RESOLVED, That this Legislative

Body pause in its deliberations to congratulate the SUNY Oswego Men's Hockey Team, its members -- Chris Hyk, Rich Zalewski, Kyle McCutcheon, Rick Varone, Tyler Laws, Trevor Gilligan, Neil Musselwhite, Derrell Levy, Tony DiNunzio, Garren Reisweber, C.J. Thompson, Brad Dormiedy, Jeffrey Johnstone, Ryan Woodward, Brendan McLaughlin, Peter Magagna, Tyler Lyon, Ryan Ellis, Mike Novak, Mark Lozzi, Francois Gagnon, Matt Whitehead, Ryan Koresky, Matt Wolf, Ryan Scott -- Assistant Coaches Dan Ford, Pete Sears and Glenn Sisman, and Head Coach Ed Gosek upon the occasion of capturing the 2006 NCAA Division III Championship; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the SUNY Oswego Men's Hockey Team."

ACTING PRESIDENT MARCELLINO: On the resolution, Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I rise to welcome the national champions here to the State Capitol today. I'm joined by two of my Assembly colleagues,

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

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

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

team.

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

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

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

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

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

Then we have three other

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

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

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

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

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

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

Thank you, Mr. President.

(Applause.)

ACTING PRESIDENT MARCELLINO: Gentlemen, I hope you feel no pressure as a result of Senator Wright's remarks.

Senator Rath, please.

SENATOR RATH: Thank you, Mr. President.

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

thank you in person.

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

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

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

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

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

ACTING PRESIDENT MARCELLINO: Senator Little, on the resolution.

SENATOR LITTLE: Thank you, Mr. President.

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

But I'm very proud of one of my

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

Congratulations to all of you on a really major achievement.

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

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

Congratulations, gentlemen. Keep up the good work.

Senator Skelos.

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

ACTING PRESIDENT MARCELLINO: There will be an immediate meeting of the Finance Committee in the Majority Conference Room, Room 332.

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

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

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

ACTING PRESIDENT MARCELLINO: Senator DeFrancisco.

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

ACTING PRESIDENT MARCELLINO: The Secretary will read same.

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

SENATOR DeFRANCISCO: Please lay that aside for the day.

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

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

SENATOR DeFRANCISCO: Lay that aside temporarily.

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

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MARCELLINO: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARCELLINO:

Senator Morahan, to explain his vote.

SENATOR MORAHAN: Thank you, Mr. President.

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

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

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

they just received a one-page --

ACTING PRESIDENT MARCELLINO: Senator Morahan, if I may interrupt, I was in error when I asked you to explain your vote. The bill that I believe you want to talk on and others have indicated they wish to talk on is Senate 924, which was laid aside temporarily.

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

SENATOR MORAHAN: Yes.

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

Senator, continue. I apologize.

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

ACTING PRESIDENT MARCELLINO: Go ahead.

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

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

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

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

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

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

in the OMRDD agency or agencies that they oversee.

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

Thank you, Mr. Chairman.

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

SENATOR BRESLIN: Thank you, Mr. President.

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

to bring everyone together.

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

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

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

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

I vote aye.

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

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

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

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

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

autism, we are learning.

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

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

Thank you.

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

SENATOR LIBOUS: Thank you, Mr. President.

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

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

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

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

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

Actually we do, as I said at the

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

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

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

SENATOR FUSCHILLO: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT MARCELLINO: Thank you, Senator Fuschillo.

Senator Farley, to explain his vote.

SENATOR FARLEY: Thank you, Mr. President.

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

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

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

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

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

ACTING PRESIDENT MARCELLINO: Thank you, Senator Farley.

Announce the results.

THE SECRETARY: Ayes, 57. Nays, 0.

ACTING PRESIDENT MARCELLINO: The bill is passed.

(Applause.)

ACTING PRESIDENT MARCELLINO: The Secretary will continue to read.

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

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

and Breeding Law, in relation to task force.

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

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

SENATOR SKELOS: Lay it aside for the day.

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

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

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

Ayes, 53. Nays, 4.

ACTING PRESIDENT MARCELLINO: The bill is passed.

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

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

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

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

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

ACTING PRESIDENT MARCELLINO: The Secretary will read.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT MARCELLINO: Read the last section.

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

ACTING PRESIDENT MARCELLINO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARCELLINO: The bill is passed.

Senator Skelos, that completes the noncontroversial calendar.

SENATOR SKELOS: Thank you, Mr. President.

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

ACTING PRESIDENT MARCELLINO: Reports of standing committees.

The Secretary will read the report of the Finance Committee.

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

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

SENATOR SKELOS: Move the nomination.

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

Senator Morahan, on the nomination.

SENATOR MORAHAN: Thank you, Mr. President.

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

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

Thank you. Good luck, Carol.

ACTING PRESIDENT MARCELLINO: Senator Flanagan.

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

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

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

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

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

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

I've spent hours and hours and

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

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

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

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

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

ACTING PRESIDENT MARCELLINO: Thank you, Senator Flanagan.

Anyone else wish to be heard on the nominee?

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

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: All opposed.

(Response of "Nay.")

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

Congratulations, Commissioner Ash.

(Applause.)

ACTING PRESIDENT MARCELLINO: The Secretary will read.

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

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

SENATOR MORAHAN: Move the nomination.

ACTING PRESIDENT MARCELLINO: Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT MARCELLINO: Thank you, Senator Seward.

Senator DeFrancisco, on the nomination.

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

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

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

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

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

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

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

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

ACTING PRESIDENT MARCELLINO: Thank you, Senator DeFrancisco.

Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

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

SENATOR DeFRANCISCO: I didn't know that.

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

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

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

My congratulations.

ACTING PRESIDENT MARCELLINO: Thank you, Senator Breslin.

Senator Stachowski.

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

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

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

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

(Laughter.)

SENATOR STACHOWSKI: I just

wanted to see if John was still listening.

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

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

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

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

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Schneiderman.

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

support of this nomination.

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

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

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

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

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

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

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

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Anyone else wishing to be heard?

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

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: Congratulations, Mr. Dinallo, and good luck in your future.

(Applause.)

ACTING PRESIDENT MARCELLINO: The Secretary will read.

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

ACTING PRESIDENT MARCELLINO: Senator Robach.

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

ACTING PRESIDENT MARCELLINO: Senator Farley.

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

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

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

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

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

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

of the family here.

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

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

(Laughter.)

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

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

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

And I'm pleased to support this nominee.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Fuschillo, on the nomination.

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

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

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

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

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

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

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, I also rise to second the nomination of Mr. Neiman for Superintendent of Banks.

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

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

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

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

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

Thank you.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Well, I

join in the accolades.

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

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

I thank you for that. Congratulations.

ACTING PRESIDENT MARCELLINO: Anyone else wishing to be heard?

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

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO: Congratulations, Superintendent Neiman.

(Applause.)

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

And whichever daughter asked that question, keep on asking.

(Laughter.)

ACTING PRESIDENT MARCELLINO: The Secretary will read.

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

ACTING PRESIDENT MARCELLINO: Senator Robach.

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

As the chairman of the Civil

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

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

Thank you, Mr. President.

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Little, on the nomination.

SENATOR LITTLE: Thank you, Mr. President.

It's an honor for me to stand and

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

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

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

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

back into Hudson Falls so we can show off.

Thank you.

ACTING PRESIDENT MARCELLINO: Senator Breslin, on the nomination.

SENATOR BRESLIN: Thank you, Mr. President.

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

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

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

And I believe, again, it's a great

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

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

Senator Savino.

SENATOR SAVINO: Thank you, Mr. President.

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

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

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

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

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

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

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

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARCELLINO: Opposed, nay.

(No response.)

ACTING PRESIDENT MARCELLINO:

Congratulations, Commissioner Groenwegen.

(Applause.)

ACTING PRESIDENT MARCELLINO: The commissioner is joined in the balcony by her husband, Paul, and son, Philip.

Congratulations once again.

Senator Robach.

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

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

SENATOR LITTLE: Thank you, Mr. President.

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

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

Senator Robach.

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

ACTING PRESIDENT MARCELLINO: Senator Krueger is recognized.

SENATOR LIZ KRUEGER: Thank you, Mr. President.

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

ACTING PRESIDENT MARCELLINO: The Secretary will read.

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

SENATOR LIZ KRUEGER: Thank you, Mr. President.

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

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

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

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

President Bush's ban on federal

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

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

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

products made from embryonic stem cells.

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

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

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

penalties attached.

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

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

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

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

Thank you, Mr. President.

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

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

ACTING PRESIDENT MARCELLINO: The petition is not agreed to.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I have a motion at the desk. I

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

ACTING PRESIDENT MARCELLINO: The Secretary will read.

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

SENATOR SCHNEIDERMAN: Thank you.

Mr. President, the bill that I'm attempting to bring to the floor today is an important piece of legislation that would simply require pharmacists to comply with the directives of a doctor and dispense prescriptions when they are lawfully written and lawfully presented by a patient.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT MARCELLINO: Thank you, Senator.

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 Adams, Breslin, Connor, Duane, Gonzalez, Hassell-Thompson, C. Johnson, Klein, L. Krueger, C. Kruger, Montgomery, Oppenheimer, Parker, Sabini, Savino, Schneiderman, Serrano, Smith, Stavisky, Stewart-Cousins, Thompson and Valesky.

ACTING PRESIDENT MARCELLINO: The petition is not agreed to.

Senator Robach.

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

ACTING PRESIDENT MARCELLINO: On

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

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