NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 29, 2008

11:10 a.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Would you please all rise and join with me in reciting the Pledge of Allegiance.

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

THE PRESIDENT: In the absence of clergy, we will bow our heads in silence for a moment.

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

THE PRESIDENT: The reading of the Journal.

THE SECRETARY: In Senate, Monday, January 28, the Senate met pursuant to adjournment. The Journal of Saturday, January 26, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up the nominations at this time.

THE PRESIDENT: The Secretary will read.

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

As a member of the Board of Trustees of the State University of New York, Linda S. Sanford, of Chappaqua.

SENATOR SKELOS: Move the nomination, please.

THE PRESIDENT: On the nomination of Linda S. Sanford as a member of the Board of Trustees of the State University of New York, all those in favor please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nomination is confirmed.

Linda S. Sanford, of Chappaqua, New York, joins us. She's in the east gallery. We want to congratulate her on this appointment and wish her all the best in her service to the State University of New York and to all the citizens of the State of New York.

Linda, thank you very much. And on behalf of the Senate, we extend to you all of our best wishes.

(Applause.)

THE PRESIDENT: The Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the City University of New York, Charles A. Shorter, of New York City.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Move the nomination.

THE PRESIDENT: On the nomination of Charles A. Shorter, of New York City, who will be seeking appointment to the City University of New York as a member of the Board of Trustees, all those in favor please

indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Senator Stavisky.

SENATOR STAVISKY: To explain my vote.

THE PRESIDENT: Senator Stavisky, on the nomination.

SENATOR STAVISKY: I just want to commend the Governor on two outstanding appointments, Linda Sanford and Charles Shorter.

They bring a new dimension to their service on the CUNY and SUNY boards. They are both experienced people in the business community, and I look forward to a productive and lengthy tenure on their part.

Thank you, Mr. President.

THE PRESIDENT: On the nomination, all those in favor please indicates so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Charles A. Shorter, who is an outstanding citizen and community leader from New York City, you are hereby appointed to the Board of Trustees of the City University of New York.

We extend to you our best wishes on behalf of Senator Stavisky and all those other members of the Senate who may not have spoken but certainly are pleased at the Governor's appointment. We wish you well and hope that you will succeed in your service to the residents of the State of New York. Congratulations.

(Applause.)

THE PRESIDENT: The Secretary will read the rest of the nominations.

THE SECRETARY: As a member of the Niagara Frontier Transportation Authority, Adam W. Perry, of Buffalo.

As a member of the Rochester-Genesee Regional Transportation Authority, Paul J. Battaglia, of Batavia.

As a member of the State Public Transportation Safety Board, David Berke, of New York City.

As a member of the Industrial Board of Appeals, Mark G. Pearce, of Buffalo.

As director of the New York State Urban Development Corporation, Derrick D. Cephas, of New York City.

As a member of the Central New York State Park, Recreation and Historic Preservation Commission, Daniel J. Trevisani, of Utica.

As a member of the Finger Lakes State Park, Recreation and Historic Preservation Commission, Robert H. Scharf, of Dundee.

And as members of the Board of Visitors of the Central New York Developmental Disabilities Services Office, Margaret W. Abbott, of Lyons Falls, and James R. Iles, of Clay.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Move the nominations, please.

THE PRESIDENT: On the nominations, all those in favor please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Senator Thompson would like to speak on the nominations.

SENATOR THOMPSON: Yes, Mr. President, I just wanted to say a few good words on behalf of two appointments.

One is Adam Perry, who's an attorney with Hodgson Russ who's been appointed to the Niagara Frontier Transportation Authority by the Governor. And we thank the Governor for this very good appointment. Adam is a community-minded person, he's an accomplished attorney. I think he's going to be a tremendous asset to the NFTA.

The other is Mark Pearce, who's also a very progressive attorney, very accomplished, a partner in his own firm out of Buffalo as well.

These two are two highly credentialed individuals who will be giving in a voluntary capacity to the betterment of New York State, and I want to thank Governor Spitzer and yourself for these two great

appointments.

Thank you.

THE PRESIDENT: Thank you, Senator Thompson.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I rise to also commend the Governor on these appointments. But very specifically, I'd like to bring attention to the appointment of Derrick D. Cephas to the director of the New York State Urban Development Corp.

I have followed Mr. Cephas's career for many years, had the opportunity to work with him as the Superintendent of Banks. And certainly I know that he will bring a tremendous perspective to the Urban Development Corp. as we go forward to develop the State of New York. And I want to just be sure that I add my congratulations to him and to the Governor on these appointments.

Thank you, Mr. President.

THE PRESIDENT: On the nominations, all those in favor indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The nominations are confirmed.

Returning to the order of business, 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, with the exception of Resolution 4122.

THE PRESIDENT: All those in favor of adopting the Resolution Calendar, with exception, please indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: Without objection, the Resolution Calendar is adopted with the exception of Resolution 4122.

SENATOR SKELOS: Mr. President, if we could at this time take up Resolution

4122, by Senator Thompson, have the title read, move it for immediate adoption, and also open it up for cosponsorship.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Thompson, Legislative Resolution Number 4122, recognizing the month of February 2008 as Black History Month in the State of New York.

THE PRESIDENT: Senator Thompson.

SENATOR THOMPSON: Thank you, sir.

First let me say that it's with great privilege and honor that I stand today in cosponsorship of this very important resolution. As many of you are fully aware, Saturday kicks off Black History Month and also African-American History Month as well.

And for me, it's always a pleasure to be able to sponsor these resolutions. I used to do this as well when I was on the City Council in Buffalo. Largely because through a blessing to be able to go to college at SUNY Brockport, I was able to learn a lot about black history and its importance and its

significance.

And for so many young people, particularly young people across our cities of New York State, many of them still today don't know a whole lot about themselves. And I'll never forget as a young inner city kid in Buffalo in the 12th grade, I had a teacher, Mr. Shapiro, who not until I was 18 years of age was I able to learn about African-American history, growing up in the city of Buffalo, outside of Dr. King. At 18 years of age.

So then when I had the opportunity to go to college, for me it was really inspiring to be able to take classes and learn more about African-American history. I think it helped shape my world view. And I think that more people need to have a greater understanding.

And so Black History Month for me is something that is extremely important. Many of our kids don't know a lot about themselves. But fortunately, because of the Internet, more young people are able to learn in ways that I did not have that opportunity to many years ago. If your teachers didn't

teach you about it, think about it, you go through 11 years of school and you don't learn it until 12th grade.

And I just know that if more young people could learn about people who don't look like them and people that do look like them, it will continue to inspire and encourage them the way it did for me.

So I just want to say thank you for this opportunity. I know that we're going to open up this resolution for everyone. And black history is also a critical part of American history as well.

Thank you.

THE PRESIDENT: Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Mr. President.

I commend Senator Thompson on bringing this resolution to the floor. As he spoke, I remember -- I'm old enough to remember when we celebrated only a week of Black History Month, and now it has become a month.

I look forward to the day when our

books will record and report the accomplishments of all people, making it unnecessary to have to designate a time where we have to point to the accomplishments of people, but, rather, our behavior, our books and our way of life will be inclusive enough that Black History Month will be something that will be a thing of the past. I hope that in my lifetime I will see that happen.

Thank you, Mr. President.

THE PRESIDENT: On the resolution, all those in favor please indicate so by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted and is open for cosponsorship. Anyone wishing not to be on the resolution may come up and indicate so at the desk. Otherwise, the resolution carries unanimously.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a resolution at the desk by Senator Craig Johnson, 4131. If we could have the

title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator C. Johnson, Legislative Resolution Number 4131, memorializing Governor Eliot Spitzer to proclaim February 3 through February 9, 2008, as Kawasaki Disease Awareness Week in the State of New York.

THE PRESIDENT: Senator Craig Johnson, on the resolution.

SENATOR CRAIG JOHNSON: Thank you. Thank you very much. I will be brief.

Kawasaki disease is a children's illness that about 80 percent of the people with Kawasaki's disease are children under the age of five.

What makes this disease very disconcerting is that it can't be detected and oftentimes mirrors other illnesses that doctors misdiagnose the disease. Its symptoms can be symbolic of other illnesses.

The problem becomes that Kawasaki's disease affects the heart. And if you are

stricken with Kawasaki disease at a young age, you oftentimes, as you get older, will suffer from heart disease and obviously death.

And so what this resolution simply does is it makes the week from February 3rd through February 9th Kawasaki Disease Awareness Week, to help our medical professionals become more aware of this dreaded disease and help find not just ways to find the cause of it but also to find a cure for it.

So I thank you, and I welcome all Senators to join on the resolution.

Thank you very much, Mr. President.

THE PRESIDENT: On the resolution, all those in favor indicate by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution has carried.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a concurrent resolution at the desk,

4145. If we could have the title read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read Concurrent Resolution 4145.

THE SECRETARY: By Senator Bruno, Concurrent Resolution Number 4145, establishing a plan setting forth an itemized list of grantees for certain appropriations for the 2007-2008 state fiscal year, as required by subdivision 5 of Section 24 of the State Finance Law.

THE PRESIDENT: Is there any Senator who wishes to speak on the resolution?

Hearing none, all those in favor.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there are substitutions to be made at the desk at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 15, Senator Leibell moves to discharge, from the Committee on Investigations and Government Operations, Assembly Bill Number 9443 and substitute it for the identical Senate Bill Number 6513, Third Reading Calendar 59.

And on page 16, Senator Maziarz moves to discharge, from the Committee on Labor, Assembly Bill Number 9817 and substitute it for the identical Senate Bill Number 6798, Third Reading Calendar 131.

THE PRESIDENT: Substitutions ordered.

Senator Sabini.

SENATOR SABINI: Thank you, Mr. President.

I just wanted to note for my colleagues that Resolution 4097, which I sponsor along with Senator Malcolm Smith, does something that's kind of amazing. It commemorates the 50th year of someone in one institution. Not many people can say that other than our own friend Senator Marchi.

Jack Curran is celebrating his 50th anniversary at Archbishop Molloy High School.

He is the legendary head basketball and baseball coach at Archbishop Molloy, an institution I attended that's in Senator Malcolm Smith's district.

Coach Curran has, as many in Catholic schools do, had to do double duty, so he's coached basketball, he's coached baseball, he was a gym teacher. He was my gym teacher. And he's been involved in touching the lives of some notoriously successful athletes, like Olympians Brian Winters, Kevin Joyce, NBA stars like Kenny Smith and Kenny Anderson.

He started out with another legend, Coach Lou Carnesecca, and went on to become his successor. He also was involved in teaching, in one form or another, some pretty prominent residents of our state, including Attorney General Cuomo, New York City Police Commissioner Ray Kelly, Council Member Joseph Addabbo, Jr., and the former Assembly Minority Leader John Faso.

What struck me when we put this resolution in is a few years ago, if you remember, we had Coach Jim Boeheim here of the

national champion Syracuse Orangemen, who made our state so proud. And when I was introduced to him, he asked me where I went to high school. And I said Archbishop Molloy, and he said: "Tell Coach Curran I said hello."

He has dedicated literally his adult life to bettering the lives of the young men -- and now young women -- of Archbishop Molloy, and I wanted to salute him on his 50th anniversary.

And I thank you for the opportunity to speak.

THE PRESIDENT: Thank you, Senator Sabini.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we can go to the noncontroversial reading of the calendar.

THE PRESIDENT: Senator Padavan.

SENATOR PADAVAN: If I may, and with the indulgence of Senator Sabini, I would like to have my name added to the resolution adopted on behalf of Jack Curran, whom I know as an instructor of my son while he was at Molloy, and his coach.

So I join you in applauding all his wonderful efforts.

THE PRESIDENT: We will add Senator Padavan's name to the resolution saluting Coach Jack Curran in his 50th year at Archbishop Molloy High School.

Now we will proceed to the noncontroversial reading of the calendar. The Secretary will read.

THE SECRETARY: Calendar Number 35, by Senator DeFrancisco, Senate Print 1825, an act to amend the Penal Law, in relation to payment.

THE PRESIDENT: The Secretary will read the last section.

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

THE PRESIDENT: The Secretary will call the roll.

(The Secretary called the roll.)

THE PRESIDENT: And the Secretary will announce the results.

THE SECRETARY: Ayes, 51.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 40, by Senator Volker, Senate Print 4114, an act to amend the Criminal Procedure Law and the Judiciary Law, in relation to allowing payment.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first of November.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes, 50. Nays, 1. Senator Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 42, by Senator DeFrancisco, Senate Print 4458, an act to amend the Criminal Procedure Law, in relation to service of a supporting deposition.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 48, by Senator Maltese, Senate Print 4473, an act to amend the Labor Law, in relation to requiring.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 52, by Senator Morahan, Senate Print 3894, an act to amend the Penal Law, in relation to designating.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 53, by Senator LaValle, Senate Print 2038, an act to amend the Workers' Compensation Law, in relation to including.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 59, substituted earlier by Member of the Assembly Bradley, Assembly Print Number 9443,

an act to amend the Tax Law.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as Chapter 596 of the Laws of 2007.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 77, by Senator Maltese, Senate Print 4249, an act to amend the Labor Law and the Education Law, in relation to prohibiting.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 131, substituted earlier today by Member of the Assembly John, Assembly Print Number 9817, an act to amend the Workers' Compensation Law and others.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 16. This act shall take effect February 1, 2008.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

THE PRESIDENT: The bill is passed.

Senator Skelos, that completes the reading of the calendar.

SENATOR SKELOS: Thank you, Mr. President.

Is there any further business at the desk?

THE PRESIDENT: There is no further business at the desk, Senator.

SENATOR SKELOS: There being no further business, I move that we stand adjourned until Monday, February 4th -- when

we'll be celebrating the Giants' winning of the Super Bowl -- at 3:00 p.m., intervening days being legislative days.

THE PRESIDENT: On motion, the Senate stands adjourned until Monday, February 4th, at 3:00 p.m., all intervening days being legislative days and celebration.

The Senate is adjourned.

(Whereupon, at 11:33 a.m., the Senate adjourned.)