NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 6, 2012

3:20 p.m.

REGULAR SESSION

SENATOR JACK MARTINS, Acting President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MARTINS: The Senate will come to order.

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

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

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

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

ACTING PRESIDENT MARTINS: The reading of the Journal.

THE SECRETARY: In Senate, Monday, March 5th, the Senate met pursuant to adjournment. The Journal of Sunday, March 4th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 12, Senator McDonald moves to discharge, from the Committee on Local Government, Assembly Bill Number 4326 and substitute it for the identical Senate Bill Number 2460, Third Reading Calendar 210.

ACTING PRESIDENT MARTINS: The substitution is ordered.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

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

As Medicaid Inspector General, James C. Cox, of East Greenbush.

ACTING PRESIDENT MARTINS: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Mr. President.

I proudly rise to move the nomination of James C. Cox, of East Greenbush, as the Medicaid Inspector General.

You know, I've said this, it's

almost like a broken record -- maybe I'll tape it before the next nomination day -- that the Governor has continuously provided us with topnotch people who know government, want to serve in government, have the experience that is needed to perform the position to which the Governor has nominated the nominee and, in this case, has already been on the job demonstrating that he will be a phenomenal appointment.

One of the main issues last year -- well, two main issues on this particular nominee -- is that we all in this body want to make sure that we very strongly go after Medicaid fraud. Because the Medicaid dollar is limited, and we've got to make sure those who truly need that help get that help and it's not taken away by people fraudulent milking the system.

Well, this nominee, James Cox, has the experience with the federal government in doing just that. He's already charged ahead in that regard.

The second issue has been to make sure that those who are investigated have due process rights and are treated fairly during the course of the investigation.

We passed a bill here last year, the Governor vetoed it and promised that he would get together with his Medicaid Inspector General, with the providers, to make sure that there is a good, solid due process behind the investigations. And that has already begun. And we questioned Mr. Cox about that in our Finance meeting.

So the Governor has done what he said he was going to do. He's appointed someone, again, who is an outstanding candidate, and I am proud to move his nomination.

Thank you, Mr. President.

ACTING PRESIDENT MARTINS: Thank you, Senator DeFrancisco.

Senator Hannon.

SENATOR HANNON: Thank you, Mr. President. I rise to back the advancement of Mr. Cox to be nominated to be the Medicaid Inspector General.

As an original sponsor of the office of the Medicaid Inspector General, and as someone who has dealt with both the positive and negative aspects of the office over the past few years, I've been delighted to, after meeting

several times with Mr. Cox, to find out that he has vast experience in the field of oversight of people providing health services.

He served in the Office of Inspector General and was the Regional Inspector General for the U.S. Department of Health and Human Services. In fact, at one point during his career he was teaching other auditors for the nation in regard to this.

That being said, when he came before the Health Committee he talked about a balance, a balance of making sure that we are scrupulous about going after Medicaid fraud in this state and, as Senator DeFrancisco said, about being fair in regard to what is happening during the course of going after people who are suspected of Medicaid fraud.

And of course the Office of Inspector General doesn't do the fraud prosecution because the statute clearly says that should be referred to the Medicaid Fraud Unit of the Attorney General.

That being said, he is extraordinarily well qualified. He has a large challenge ahead because the budget this year

proposes pretty much the same type of target recoveries as it did last year, which means that there will be a little bit of angst in the course of him doing a good job.

And with that, I would like to commend him to this body. Thank you.

ACTING PRESIDENT MARTINS: Thank you very much, Senator Hannon.

Anyone else wishing to be heard?

Seeing no one, the question is on the nomination of James C. Cox as Medicaid Inspector General. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARTINS: Opposed, nay.

(No response.)

ACTING PRESIDENT MARTINS: The ayes have it. James C. Cox is hereby confirmed as Medicaid Inspector General.

Mr. Cox, congratulations.

(Applause.)

ACTING PRESIDENT MARTINS: Mr. Cox is joined here this afternoon by his wife, Dawn, and his daughter Ashley.

Thank you very much for joining us. Congratulations, Godspeed to all of you, and we're looking forward to great things from you as well. Thank you, Mr. Cox.

The Secretary will read.

THE SECRETARY: As member of the Battery Park City Authority, Martha J. Gallo, of New York.

And as members of the New York State Council on the Arts, Amy Cappellazzo, of New York City, and Robert Colacello, of East Hampton.

ACTING PRESIDENT MARTINS: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move the nominations.

ACTING PRESIDENT MARTINS: Thank you.

Senator Squadron.

SENATOR SQUADRON: Thank you, Mr. President.

I rise in support of Martha Gallo as an appointment to the Battery Park City Authority.

Down in Battery Park City, which is

a state authority that oversees one of the great thriving neighborhoods in our state, on the southern tip of Manhattan, a neighborhood that has been built literally from the river over the last 40 years and has rebuilt itself in a way no one thought imaginable 10 years ago after September 11, 2001 -- it's a neighborhood that I am proud to represent and a neighborhood in which, though it is controlled by a state authority, there has been a push for many years to increase the local representation on the board of the Battery Park City Authority.

Martha Gallo has been involved in the civic affairs of Batter Park City. She has been a community leader. She also has experience in finance and municipal finance, which are important qualities on the board of the Battery Park City Authority. And her appointment by the Governor is one that I want to really hail and thank the Governor for.

Along with Speaker Silver, who also represents Battery Park City, we have been pushing, with the community support, for increased local representation. Martha Gallo is an important step.

Now, I'd like to see more. Just one local activist on the Battery Park City Authority Board when you have this existing vibrant neighborhood isn't sufficient, but it is an important step in the right direction.

Martha will be great. The Governor deserves a great deal of credit for this appointment, and I thank him. And in the community we look forward to having her on the board.

Thank you, Mr. President.

ACTING PRESIDENT MARTINS: Thank you, Senator Squadron.

The question is on the nominations of Martha J. Gallo as a member of the Battery Park City Authority; Amy Cappellazzo, as a member of the New York State Council on the Arts; and Robert Colacello, as a member of the New York State Council on the Arts. All in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MARTINS: Opposed, nay.

(No response.)

ACTING PRESIDENT MARTINS: The

ayes have it. The nominations are confirmed.

Congratulations to Martha Gallo, Amy Cappellazzo, and Robert Colacello.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Libous.

SENATOR LIBOUS: Mr. President, we have an announcement, I believe, by Senator Farley at this time.

ACTING PRESIDENT MARTINS: Senator Farley.

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

This is quite a thrill for me to say that we have the people from WGNA and Blue Friday, an operation that recognizes law enforcement officers that have been killed in the line of duty, and their families, and also law enforcement officers that serve today.

Now, on Friday, March 9th -- that's this Friday -- from 5:30 a.m. to 10:30, WGNA, DeNooyer Chevrolet, and Blue Friday of New York will be taking donations for a blue carnation for

Blue Friday and selling t-shirts at DeNooyer Chevrolet and Pizzeria Uno in Wilton. Over 25 agencies will be represented at the two franchises, and all proceeds will go directly to Blue Friday.

It's a wonderful way to show support for this wonderful organization, Blue Friday New York, which serves the families of our dedicated police officers who were tragically killed in the line of duty.

And today we have in the gallery some very important people: The operations manager of my favorite station, Tom Jacobsen, and the WGNA morning hosts, the nationally recognized Richie Phillips and Sean McMaster -- both are my buddies, incidentally.

And we also have with us Blue Friday New York President Patrick Fox, a retired Albany police officer, and Vice President Lou Somma, retired from the Saratoga County Sheriff's Department, and Director Tom McGraw, a detective with the Albany Police Department.

And we're delighted to have them in the gallery and to celebrate Blue Friday, which is this Friday. And I ask, Mr. President, if you

would recognize them in the gallery up here.

ACTING PRESIDENT MARTINS: Gentlemen, congratulations. Thank you very much for being here.

(Applause.)

ACTING PRESIDENT MARTINS: We extend to you the courtesies of the house. Thank you.

Senator Libous.

SENATOR LIBOUS: Mr. President, could you call on Senator Young for the purposes of an announcement.

ACTING PRESIDENT MARTINS: Senator Young.

SENATOR YOUNG: Thank you, Mr. President.

It's been an incredibly busy day here at the Capitol. There's so many groups here from across the state who are visiting us to put forward their very important issues.

But I do want to draw attention to two groups in particular, because they are celebrating 35 years of success. And those two group are the Rural Preservation Program and the Neighborhood Preservation Program, and they are

celebrating their anniversary. They provide, as we know, critical services in our communities across the state.

So we're very, very happy to have them with us today. And I wanted to let all of my colleagues know that we will be passing a resolution in honor of their 35th anniversary, and I would invite all of my colleagues who want to join in to join in on the resolution so that we all can show our support from the New York State Senate.

Thank you, Mr. President.

ACTING PRESIDENT MARTINS: Thank you, Senator Young.

Senator Libous.

SENATOR LIBOUS: Mr. President, at this time Senator Perkins should be called on for the purposes of an announcement.

ACTING PRESIDENT MARTINS: Thank you.

Senator Perkins.

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

I just wanted to take a brief moment to acknowledge some guests that we have

amongst us today. They call themselves DREAMers, and they are here, 250 strong, to get the opportunity to speak to our colleagues not only on the Senate side but also in the Assembly.

They're young people who have these great aspirations to live up to the American dream of a quality education and to advocate that the DREAM Act, that I'm sponsoring here and that Guillermo Linares is sponsoring in the Assembly, be passed and that they be given the opportunity to get a quality university education.

They are, again, 250 strong, of approximately 5,000 that are part of our great state. And I just wanted to acknowledge them and praise them for their vision and for their diligence in fighting an uphill battle with a faith that can only result in victory on their behalf.

So thank you very much for the opportunity to recognize them for being with us today, and we look forward to fulfilling their dreams as we pursue the voting and recommending this legislation to the Governor for his signature.

ACTING PRESIDENT MARTINS: Thank

you, Senator Perkins.

And thank you all for coming today. It really is great to see you here, and congratulations. Senator Perkins, thank you for that statement.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

I believe that completes our announcements, and we'll now have the reading of the noncontroversial calendar.

ACTING PRESIDENT MARTINS: The Secretary will read.

THE SECRETARY: Calendar Number 210, substituted earlier today by Member of the Assembly Jordan, Assembly Print 4326, an act to provide for the creation of the Stephentown Memorial Library District.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARTINS:

Announce the results.

THE SECRETARY: In relation to Calendar Number 210: Ayes, 56. Nays, 1. Senator Ball recorded in the negative.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 216, by Senator Larkin, Senate Print 4676, an act to remove from the Albert Wisner Memorial Library.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 224, by Senator Lanza, Senate Print 6219, an act to amend Chapter 306 of the Laws of 2011.

ACTING PRESIDENT MARTINS: Read

the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 234, by Senator Martins, Senate Print 6483, an act to amend the Local Finance Law.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARTINS: Senator Krueger to explain her vote.

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

I understand the intention of the bill, but I want to go on record that it does add

some risk for the process of bringing bonds to the market. And that at least I have been advised that there are some ways for New York State to deal with this issue rather than dropping the requirement as we currently have it under law.

So while I would be certainly open to changing my vote if in fact negotiations took place that made some changes in the bill, at this point in time I am voting no.

Thank you very much.

ACTING PRESIDENT MARTINS: Senator Krueger will be recorded in the negative. Thank you, Senator Krueger.

Announce the results.

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

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 236, by Senator Hannon, Senate Print 3672, an act to amend the Public Health Law.

ACTING PRESIDENT MARTINS: Read the last section.

THE SECRETARY: Section 6. This

act shall take effect immediately.

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 237, by Senator Alesi, Senate Print 4055A, an act to amend the Public Health Law.

ACTING PRESIDENT MARTINS: Read the last section.

THE SECRETARY: Section 2. This act shall take effect one year after it shall have become law.

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 238, by Senator Gallivan, Senate Print --

SENATOR LIBOUS: Lay the bill aside for the day.

ACTING PRESIDENT MARTINS: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 239, by Senator Ball, Senate Print 6305, an act to amend the Public Health Law.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 244, by Senator Larkin, Senate Print 1506, an act to amend the Highway Law.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARTINS: Senator Larkin to explain his vote.

SENATOR LARKIN: Thank you, Mr. President.

Once again I rise to ask my colleagues on the other side and on this side, if you know anybody on the other side that's concerned about honesty, decency, respect for others -- we've passed this bill for General Petraeus the last four years.

The President of the United States thought greatly of this gentleman to ask him to do the surge in Iraq and Afghanistan. He just asked him to be the CIA director. It would seem to me if the President of the United States thinks he's a distinguished and competent individual, we in the State of New York -- we, the Senate, unanimously have passed this to designate this highway. Our villages, our towns, and our county have all asked for it.

And it gets blocked again in the New York State Assembly. Rationale, I don't know. The chairman of the committee won't return my calls. His staff's answer is he's too busy.

General Petraeus has been busy for

37 years serving our country, and now he's got one of the highest jobs in the cabinet of President Obama. Designating this road for General Petraeus, an area which he just didn't invent -- he was born there, went to grammar school there, went to high school. And at the end of this road is where he went to the United States Military Academy, becoming a distinguished graduate.

Thirty-seven years of service to his country, four-star general, one of the most decorated officers we've ever had in our country. Lauded by foreign governments from A to Z. And all we're asking for is a little cooperation from the other house to name this road in honor of a distinguished American.

I thank you in this chamber for the support you have given to this bill for the past four years, and I ask that it once again be a unanimous vote. And would you mind, please, calling somebody you know in the other house and saying, "Wake up. If he's good enough for the president, he ought to be good enough for us."

Thank you.

ACTING PRESIDENT MARTINS: Thank

you, Senator Larkin.

Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 245, by Senator Libous, Senate Print 2751A, an act to amend the Highway Law.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MARTINS: Senator Libous to explain his vote.

SENATOR LIBOUS: Mr. President, I stand with my colleague Senator Larkin.

This bill has passed the Senate probably seven, eight times. And for whatever reason, someone in the Assembly doesn't like Ronald Reagan, and I'm very dismayed by that.

But this is changing the Ronald Reagan Highway in Tioga County, which I

represent. My Assembly colleague who represents the area can't get the bill out of committee. It's pretty pathetic. Actually, it's very pathetic.

This is something in our district. I think if the Legislature -- and certainly I would think that everybody in this house would agree with me, if there's something as simple as this that the people want and it can't get out of the committee in the Assembly, it's pathetic.

ACTING PRESIDENT MARTINS: Thank you, Senator Libous.

Announce the results.

THE SECRETARY: In relation to Calendar Number 245, those recorded in the negative are Senators Adams, Krueger, Parker and Rivera.

Ayes, 54. Nays, 4.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 248, by Senator Young, Senate Print 5060B, an act to amend the Highway Law.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 249, by Senator Libous, Senate Print 5132C, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MARTINS: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 250, by Senator Skelos, Senate Print 5563, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MARTINS: There

is a home-rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 251, by Senator Farley, Senate Print 5765, an act relating to permitting.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 252, by Senator Grisanti, Senate Print 6323, an

act to amend the Highway Law.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MARTINS: The bill is passed.

THE SECRETARY: Calendar Number 258, by Senator Gallivan, Senate Print 5493A, an act to amend the Social Services Law.

ACTING PRESIDENT MARTINS: Read the last section.

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

ACTING PRESIDENT MARTINS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 2. Senators Duane and Krueger recorded in the negative.

ACTING PRESIDENT MARTINS: The

bill is passed.

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

SENATOR LIBOUS: Mr. President, is there any further business at this time at the desk?

ACTING PRESIDENT MARTINS: No, there is none.

SENATOR LIBOUS: If there's no further business at the desk, I would ask that you call on Senator Breslin at this time.

ACTING PRESIDENT MARTINS: Senator Breslin.

SENATOR BRESLIN: Thank you, Mr. President.

This is a very important day in the State Senate. We've passed legislation in this house for the General Petraeus Highway, passed legislation for the Ronald Reagan Highway. And it also happens to be, thirdly, the birthday of Senator Kevin Parker.

(Laughter.)

SENATOR BRESLIN: So I would like to applaud his birthday on this day.

ACTING PRESIDENT MARTINS: Senator

Parker, happy birthday. Many more.

(Applause.)

ACTING PRESIDENT MARTINS: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

As we close out this session on Senator Parker's birthday, there being no further business at the desk, I move that we adjourn until March 7th at 11:00 a.m.

ACTING PRESIDENT MARTINS: On motion, the Senate stands adjourned until March 7th, 11:00 a.m.

(Whereupon, at 3:48 p.m., the Senate adjourned.)