NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 5, 2008

3:05 p.m.

REGULAR SESSION

SENATOR GEORGE D. MAZIARZ, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MAZIARZ: The Senate will come to order.

I would ask everyone to please rise for the Pledge of Allegiance.

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

ACTING PRESIDENT MAZIARZ: The invocation today will be given by the Reverend David Costantino, pastor of the Light House Baptist Church, which is located in the absolute best city in the entire state of New York, the city of North Tonawanda.

Reverend Costantino.

REVEREND YOUNG: Thank you. I was asked to give a $35 prayer. I don't know what that is, but I'll do my best. I guess they say preachers are paid to be good; everyone else is just good for nothing. So I think what's going to go on here is a little bit more than that.

So let's bow our heads for prayer, and let's call on our great God and ask for wisdom.

Our heavenly Father, we come before

You in the name of Jesus Christ and acknowledging You as Lord of our lives and admitting to You that we need You today. You said in all thy ways acknowledge You, and You shall direct our paths.

So, God, we admit to You that we're finite beings but that You're the one who is infinite, You're the one who is all-wise and all-powerful.

And we pray that You'll bless what goes on here today and give all here wisdom and guidance and help to realize Your presence, that You're aware of all that is said and done.

We pray in Jesus' name, amen.

ACTING PRESIDENT MAZIARZ: Thank you very much, Reverend.

Reading of the Journal.

THE SECRETARY: In Senate, Monday, February 4, the Senate met pursuant to adjournment. The Journal of Friday, February 1, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MAZIARZ: Without objection, the Journal stands approved

as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar, with the exception of Resolution 4146.

ACTING PRESIDENT MAZIARZ: All in favor of adopting the Resolution Calendar, with the exception of Resolution Number 4146, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: If we could take

up Resolution 4146, by Senator Bruno, have it read in its entirety, and move for its immediate adoption.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 4146, recognizing February 8, 2008, as "Blue Friday."

"WHEREAS, The State of New York takes great pride in participating in significant days of recognition; and

"WHEREAS, Albany radio station WGNA has teamed up with the Capital District Chapter of Concerns of Police Survivors, Inc. -- COPS -- in recognizing February 8, 2008, as "Blue Friday," in honor of all law enforcement officers who have given their lives in the line of duty, as well as all those still serving; and

"WHEREAS, COPS, organized in 1984 with approximately 110 members, has grown into a nationwide nonprofit organization with 48 chapters throughout the United States and an affiliate in the United Kingdom. Its mission

is to help rebuild the lives of survivors of law enforcement officers killed in the line of duty by serving as a clearinghouse for federal and state benefits information and resources that may be available to the surviving families; and

"WHEREAS, COPS also provides training to law enforcement agencies on survivor victimization issues and educates the public of the need to support the law enforcement profession and its survivors; and

"WHEREAS, Each year, between 140 and 160 officers are killed in the line of duty, and their families and coworkers are left to cope with the tragic loss; and

"WHEREAS, Today's COPS membership, including spouses, children, parents, siblings, significant others, and coworkers of officers killed in the line of duty, consists of more than 12,000 families; and

"WHEREAS, February 8th is a reminder to pay tribute to those in the law enforcement community who has made the ultimate sacrifice; and

"WHEREAS, On February 8, 2008, from

6:00 a.m. until 10:00 a.m., WGNA, DeNooyer Chevrolet and COPS will be taking a Donation for a Carnation, selling blue carnations and special edition "Blue Friday" T-shirts at both DeNooyer Chevrolet in Colonie, New York, and Pizzeria Uno, Saratoga Springs, New York. Over 25 agencies will be represented at the two locations, and all proceeds will go directly to COPS; and

"WHEREAS, The State of New York is eternally grateful for the service of its brave men and women in law enforcement, and applauds the efforts of COPS to assist the families of those who have made the ultimate sacrifice; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to recognize February 8, 2008, as "Blue Friday"; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to WGNA and COPS."

ACTING PRESIDENT MAZIARZ: The question is on the resolution. All in favor signify by saying aye.

Senator Farley.

SENATOR FARLEY: We'll pass the resolution; I'll speak to it.

ACTING PRESIDENT MAZIARZ: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

Senator Farley.

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

I rise -- Senator Bruno wished to be here, because it's a resolution by both of us -- to honor "Blue Friday," which is this Friday coming up.

And I'm here to say that in the hearts of all New Yorkers, there's not a single act of bravery greater than the men and women of law enforcement who have made the ultimate sacrifice and died in the line of duty, protecting the safety and the lives of others.

You know, this is a wonderful thing that WGNA and the organization called COPS does to honor these people. And today we have in the gallery a number of people that are significant. Basically, I'd like to introduce them all to you.

But let me just say that WGNA, which is a local radio station -- incidentally, it is the number-one radio station in this area, and one that I listen to all the time and every morning.

And with us today, we have officer and president of COPS Pat Fox, retired from the Albany Police. Also, Bob Fitzgerald, who's not with us here today, he's vice president.

And let me introduce to you, from WGNA, Bob Ausfeld, the regional vice president. Bob? And also Tom Jacobson, the program director. Tom?

And the three stars that we have up there, the DJs: Sean McMaster -- there he is -- who's a big Giants fan; and Richie Phillips, the great Richie Phillips, who does a thing on the Senate and the Assembly and

legislators; and of course Casey Danton, who also works with them. Casey? And also with us we have Selena Dutcher, the marketing director.

We're very, very pleased that this Friday, at DeNooyer Chevrolet and up at Pizzeria Uno, they will be selling blue carnations and T-shirts on behalf of COPS.

And we thank you for your service. We thank you for what you're doing for fallen police officers. Everybody in this Senate and in this Legislature in general is thrilled and pleased to honor you because of all the service that these police officers have given.

And every day, their lives are in danger. We've had so many tragedies, even this year I think in the double figures, 10 or 12 that have also given their lives.

With that, Mr. President, I support the resolution.

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

Thank you very much for your service.

Senator Skelos.

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

ACTING PRESIDENT MAZIARZ: The Secretary will read.

SENATOR SKELOS: Mr. President, if we could do a substitution first.

ACTING PRESIDENT MAZIARZ: The Secretary will read the substitution.

Resolution 4146 will be open to all members except those who report to the desk that they do not want to be on it.

Senator Skelos.

SENATOR SKELOS: I believe there's one substitution at the desk.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: On page 19, Senator Libous moves to discharge, from the Committee on Insurance, Assembly Bill Number 6344B and substitute it for the identical Senate Bill Number 4097A, Third Reading Calendar 141.

ACTING PRESIDENT MAZIARZ: Substitution ordered.

Senator Skelos.

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

ACTING PRESIDENT MAZIARZ: The `Secretary will read.

THE SECRETARY: Calendar Number 80, by Senator Larkin, Senate Print 343, an act to amend the Agriculture and Markets Law, in relation to including.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 13. This act shall take effect on the 180th day.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: If I could point out, you mentioned the bill will become effective on its 180th day.

Today we're celebrating the 80th birthday of one of our esteemed colleagues -- war hero, friend, great public official -- and

we wish him 180 years: Our colleague, Senator Bill Larkin.

Bill, happy birthday.

(Standing ovation.)

ACTING PRESIDENT MAZIARZ: Happy birthday, Senator Larkin, and many, many, many more.

The Secretary will announce the results of Senate Print 343.

THE SECRETARY: Those recorded in the negative are Senators Duane and Padavan.

Ayes, 53. Nays, 2.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 82, by Senator Young, Senate Print 3714A, an act to amend the Agriculture and Markets Law, in relation to including.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 91, by Senator Flanagan, Senate Print 837, an act to amend the Public Authorities Law, in relation to tort claims.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 92, by Senator Leibell, Senate Print 3791, an act to amend the Not-for-Profit Corporation Law, in relation to maintenance.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 95, by Senator Flanagan, Senate Print 4175A, an act to amend the Public Authorities Law, in relation to powers of subsidiaries.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 96, by Senator Saland, Senate Print 6214, an act to amend the Public Authorities Law, in relation to authorizing.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 111, by Senator Winner, Senate Print 903, an act to amend the Highway Law, in relation to establishing.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 112, by Senator Libous, Senate Print 1655A, an act to amend the Highway Law, in relation to designating.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 113, by Senator Skelos, Senate Print 3573, an act to amend the Vehicle and Traffic Law, in relation to allowing photo images.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 132, by Senator Maziarz, Senate Print 1627, an act to amend the Workers' Compensation Law, in relation to disqualifying.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the first of July.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 139, by Senator Seward, Senate Print 2397A, an act to amend the Insurance Law, in relation to permitting.

ACTING PRESIDENT MAZIARZ: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 141, substituted earlier today by Member of the Assembly Gunther, Assembly Print Number 6344B, an act to amend the Insurance Law.

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MAZIARZ: The bill is passed.

THE SECRETARY: Calendar Number 146, by Senator Padavan, Senate Print 84, an act to amend the Penal Law, in relation to the definition of the term "retail value."

ACTING PRESIDENT MAZIARZ: Read the last section.

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

ACTING PRESIDENT MAZIARZ: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MAZIARZ: Announce the results.

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MAZIARZ: The bill is passed.

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

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

ACTING PRESIDENT MAZIARZ: There is none, Senator Skelos.

SENATOR SKELOS: There being none, I move we stand adjourned until Wednesday, February 6th, at 11:00 a.m.

ACTING PRESIDENT MAZIARZ: The Senate will stand adjourned until Wednesday, February 6th, at 11:00 a.m.

(Whereupon, at 3:22 p.m., the Senate adjourned.)