THE NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 11, 2008

3:02 p.m.

REGULAR SESSION

SENATOR CATHARINE M. YOUNG, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT YOUNG: The Senate will come to order.

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 YOUNG: The invocation today will be a moment of silence, in absence of clergy. Please bow our heads.

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

ACTING PRESIDENT YOUNG: Reading of the Journal.

THE SECRETARY: In Senate, Monday, March 10, the Senate met pursuant to adjournment. The Journal of Friday, March 7, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT YOUNG: 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 Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Lanza, on page 25 I offer the following amendments to Calendar Number 372, Senate Print 6281A, and I ask that that bill will retain its place on the Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Madam President, if we could adopt the Resolution Calendar, with the exception of Resolutions 4607, 4619, 4624, and 4654.

ACTING PRESIDENT YOUNG: All in favor of adopting the Resolution Calendar,

with the exceptions noted, please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT YOUNG: Opposed, nay.

(No response.)

ACTING PRESIDENT YOUNG: The Resolution Calendar is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could take up Resolution 4619, by Senator Maltese, have the title read and move for its immediate adoption.

ACTING PRESIDENT YOUNG: The Secretary will read.

THE SECRETARY: By Senator Maltese, Legislative Resolution Number 4619, commemorating the 97th Anniversary of the Triangle Shirtwaist Factory Fire on March 25, 2008.

ACTING PRESIDENT YOUNG: Senator Maltese.

SENATOR MALTESE: Yes, Madam President. I rise, as I do each year, to commemorate the anniversary of the Triangle

Shirtwaist Factory Fire. This is the 97th anniversary since that day on March 25th in 1911.

Many of us remember, many of us know from our history books that the fire laws in New York State and across the country were extremely lax. And as the immigrants from came from the foreign shores, they were put into sweatshops. The term "sweatshops" originated in many of the knitting factories that existed in our own City of New York and across the country.

And in these sweatshops the conditions were deplorable, even for those times. The employees were locked in, there was very little air circulating, the hours were horrendous. Many of the establishments indicated that if the employees did not come in on Sundays, they would not be able to work on Mondays, they would not be permitted to work.

I'd like to mention at this time my grandfather, Serafino, who I was named after. I use his example as an example of those who came over to this country to seek a better

life.

My grandfather was a shoemaker, and when he came over in 1904, he sent for his family after a year or two, where he was able to raise enough to bring his family here. And we look at the plight of the immigrants of those times. And my grandfather sent for his family, which was composed of his wife, his three daughters and his two sons.

And they came over, and on the ship coming over his little daughter Maria sickened on the ship coming over and perished at Ellis Island Hospital. So he lost his first daughter, the one of three, in Ellis Island Hospital. But he went on.

And settling on the Lower East Side of Manhattan, he did as so many other immigrants did, not only working himself long hours, seven days a week, but his wife and his two daughters went to work at the Triangle Factory -- his wife Caterina, his 17-year-old daughter Lucia, and his 14-year-old daughter Rosaria.

And they went to work, and they left for work on the morning of Saturday,

March 25, 1911, and he never saw them alive again.

The fire broke out, and nobody knows really what happened, but they speculate that it broke out in the knitting scraps and the material scraps that were on the sides of the floors.

The factory itself was on three stories. The ninth story was the executive's floor. And the executives did not -- when the fire broke out, they did not tell the workers on the bottom two floors.

An alarm was sent, but the fire ladders of the time reached only up to the sixth floor. The workers ran for the fire escapes, but because they were inferior, they broke under the weight of the people trying to escape at the side of the building. And many of the fire escapes fell to the alley floors, together with those unfortunates that were on them.

The majority of the people working there were Italian and Jewish immigrants, almost all of them. One hundred forty-six perished, a majority of them women and young

girls.

The fire disabled the elevator, the crush of the women against the elevator disabled the elevator. The remaining women, many of them tried to throw themselves down the elevator shafts. Other women managed to reach the windows, but with the fire ladders reaching only the sixth floor, they were almost of no help.

One hundred forty-six women died, including my grandmother and two aunts. I never knew them, but I knew my grandfather Serafino. And he was a deeply religious man. He exemplifies the immigrants that came to this country.

As this fire was so horrendous, the loss of life so horrendous, it enabled the International Ladies' Garment Workers, which is now called UNITE today, to grow and to become a much stronger union and protect the employees and improve working conditions.

Many of the people involved went on to greater careers -- Robert Wagner, Sr., who headed the commission that investigated, went on to become the United States Senator. Al

Smith, who was the vice chairman of the committee, went on to become the Governor of the State of New York. Frances Perkins went on to become the Secretary of Labor, the first woman to serve as a secretary in a cabinet position. All because of this fire.

Unfortunately, many of those similar conditions exist today. Many of us as legislators are attempting to do something about the so-called sweatshop conditions that exist today with the new immigrants that are coming today.

Madam President, I offer this resolution -- my colleagues may join in -- in commemoration of all those 146 souls that lost their lives on March 25, 1911. I vote aye.

ACTING PRESIDENT YOUNG: Thank you, Senator Maltese.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT YOUNG: Opposed, nay.

(No response.)

ACTING PRESIDENT YOUNG: The

resolution is carried.

At this time it is my great honor to introduce His Eminence, Edward Cardinal Egan, for the invocation.

ARCHBISHOP EGAN: Thank you very much.

And, Senator Maltese, I go every year to the Triangle celebration and memorial in New York, and so I know exactly what you're talking about. And I've never failed to give a talk on that occasion; I'm glad to hear you're doing the same.

Thank you very much for allowing me to be here. And if we could take a moment for prayer.

Almighty and eternal Father, we place ourselves in Your presence. We seek Your blessing. We seek a blessing for the great State of New York, for all the citizens who make it up, who are struggling to live according to Your law and one day will find themselves in Your embrace for all eternity.

We pray for our Senators, for the members of our Assembly, and for all who are our political leaders here in this state. May

they and their families have the blessing of Your constant care, for they are ever in Your love.

We ask You as well, O Lord, to care for those who are hurting in our state, those who are hungry or losing their homes, without jobs. Those who are strangers, those who are ill, those who need our understanding, our compassion, our love. May we have the courage to live up to Your expectation for our care for every human being, an image of You formed in Your likeness.

At this difficult moment in the history of our beloved state, we pray for our Governor, for his family, for his staff, and for all of us. May we find our way through this difficulty and move forward to serve the people of this state as You would have them served, O Father, and to serve You well in each and every one of our days, in each and every one of our efforts.

This we ask with total trust and confidence, now and forever.

Amen.

ACTING PRESIDENT YOUNG: We're

also very honored to be joined by Albany Diocese Bishop Howard Hubbard. Thank you, Bishop.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a resolution at the desk, 4654, by Senator Farley. If we could have it read in its entirety.

ACTING PRESIDENT YOUNG: The Secretary will read.

THE SECRETARY: By Senator Farley, Legislative Resolution Number 4654, celebrating the first apostolic visit to the United States of His Holiness Pope Benedict XVI.

"WHEREAS, The State of New York takes great pride in acknowledging visits from the world's most esteemed religious leaders; and

"WHEREAS, His Holiness Pope Benedict XVI, spiritual leader of the world's 1.1 billion Catholics, is the 265th Pope; and

"WHEREAS, Pope Benedict will make his first apostolic visit to the United States April 15 through April 20, 2008; and

"WHEREAS, The Holy Father will arrive in New York on April 18th; and

"WHEREAS, While in New York, Pope Benedict will speak before the United Nations, offer an ecumenical prayer service at St. Joseph's Church, a mass for priests, deacons, and members of religious orders at St. Patrick's Cathedral and a public mass at Yankee Stadium, attend a youth rally at St. Joseph's Seminary, and visit Ground Zero; and

"WHEREAS, The Holy Father was born Josef Alois Ratzinger on April 16, 1927, in Bavaria, Germany; and

"WHEREAS, Pope Benedict was ordained a priest in 1951, and earned a doctorate and licentiate in theology from the University of Munich in 1957; and

"WHEREAS, The Holy Father taught dogma and fundamental theology at the University of Freising from 1958 until 1959, the University of Bonn from 1959 until 1969, and the University of Munster from 1963 until 1966, and

"WHEREAS, During the 1960s,

Pope Benedict also attended the Second Vatican Council as a theological consultant to the Archbishop of Cologne; and

"WHEREAS, From 1966 until 1969, the Holy Father served as chair of the department of dogmatic theology at the University of Tubingen. He then returned to Bavaria and was appointed professor of dogma and the history of dogmas at the University of Regensburg, where he also served as vice president until 1977; and

"WHEREAS, in 1969, Pope Benedict, a renowned theologian and author, was named" --

ACTING PRESIDENT YOUNG: Excuse me. We have some extra noises in the chamber. Could that cease and desist, please. Thank you. Proceed.

With our apologies, the Secretary will read.

THE SECRETARY: And

"WHEREAS, In 1969, Pope Benedict, a renowned theologian and author, was named a member of the International Theological Commission; and

"WHEREAS, The Holy Father was

appointed Archbishop of Munich and Freising in 1977. He was named Cardinal later that year; and

"WHEREAS, On November 25, 1981, then-Pope John Paul II named Cardinal Ratzinger prefect of the Congregation for the Doctrine of Faith, as well as president of the Pontifical Biblical Commission and the International Theological Commission; and

"WHEREAS, On November 20, 2002, Pope John Paul II approved Cardinal Ratzinger's election as Dean of the College of Cardinals and gave him the title of Cardinal-Bishop of Ostia; and

"WHEREAS, Cardinal Ratzinger resigned as prefect of the Congregation for the Doctrine of Faith and prepared to participate in the Conclave to elect the next Pope upon the death of Pope John Paul II on April 2, 2005; and

"WHEREAS, on April 19, 2005, Cardinal Joseph Ratzinger was elected the 265th Pope and the first German Pope in 948 years; and

"WHEREAS, The Holy Father adopted

the name Benedict XVI, in honor of St. Benedict and of Pope Benedict XV; and

"WHEREAS, Pope Benedict has authored two papal encyclicals, God is Love and Saved by Hope; and

"WHEREAS, New York State and, indeed, the entire nation is pleased to welcome Pope Benedict XVI upon his first apostolic visit to the United States; now, therefore, be it

"RESOLVED, That this Legislative Body pause in under the circumstances deliberations to celebrate the first apostolic visit of Pope Benedict XVI; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to His Holiness Pope Benedict XVI and the New York State Catholic Conference."

ACTING PRESIDENT YOUNG: Could we please have some order in the chamber.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

Let me just say that this resolution, which will be sent to Pope

Benedict -- we're truly honored to have the Cardinal come visit us and to offer his prayer. We're also honored to have the bishop of Albany, Senator -- Bishop Hubbard with us.

And let me just say that this resolution is open to every member of the Senate. If you wish not to be a sponsor, please notify the desk. Thank you very much.

And, Madam President, I don't know where all that noise is coming from that speaker, but thank you for allowing this resolution to be read.

ACTING PRESIDENT YOUNG: Thank you, Senator Farley.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT YOUNG: Opposed, nay.

(No response.)

ACTING PRESIDENT YOUNG: The resolution is carried.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a Resolution 4624 at the desk, by

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

ACTING PRESIDENT YOUNG: The Secretary will read.

THE SECRETARY: By Senator Maziarz, Legislative Resolution Number 4624, commemorating the 200th Anniversary of Niagara County, New York.

ACTING PRESIDENT YOUNG: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Madam President.

I proudly stand here today on this, the anniversary, March 11, 2008, of the formation of the County of Niagara on March 11, 1808.

And this evening, in the county legislative chambers in the City of Lockport, the county legislature will have a ceremonial reenactment of the first legislative meeting held in the new County of Niagara.

Niagara County was formed out of what was then Genesee County in Western New York. It's become a worldwide attraction. It's been my home for my entire life. It's a

great place to live, work.

And we just wanted to go on record as officially congratulating the County of Niagara on its 200th anniversary.

Thank you, Madam President.

ACTING PRESIDENT YOUNG: Thank you, Senator Maziarz. And congratulations to Niagara County on 200 years of success.

SENATOR MAZIARZ: Thank you.

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

(Response of "Aye.")

ACTING PRESIDENT YOUNG: Opposed, nay.

(No response.)

ACTING PRESIDENT YOUNG: The resolution is carried.

Senator Skelos.

SENATOR SKELOS: Madam President, Senator Thompson has a resolution at the desk, 4607. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT YOUNG: The Secretary will read.

THE SECRETARY: By Senator Thompson, Legislative Resolution Number 4607, commemorating the 116th Anniversary of the City of Niagara Falls, New York, to be celebrated on Friday, March 14, 2008.

ACTING PRESIDENT YOUNG: Senator Thompson, on the resolution.

SENATOR THOMPSON: Thank you, Madam President.

I'd just like to say a few brief remarks about a very, very good city, the City of Niagara Falls. Some people call it the honeymoon capital of the world. And this Friday, we will celebrate the 116th anniversary of the city.

I really enjoy representing the city. It's resurging. And I just hope that people will come out to the city of Niagara Falls and really continue to support other efforts to revitalize not only Niagara Falls but other upstate communities, big cities and small cities and towns as well.

Thank you.

ACTING PRESIDENT YOUNG: Thank you, Senator Thompson.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT YOUNG: Opposed, nay.

(No response.)

ACTING PRESIDENT YOUNG: The resolution is carried.

Senator Maltese.

SENATOR MALTESE: Yes, Madam President. I am speaking in connection with Resolutions 4612 to 4616.

As many of my colleagues know, I have the honor of being chairman of the board, for the last 30 years, of the Christ the King Regional High School. We have today a group from Christ the King High School.

They are accompanying their principal, Peter Mannarino; the math coach, Mr. Richard Hartman; Alice Wenz, our executive secretary; and Helena Mannarino, the captain of the math team.

They entered a contest for the recitation of the most figures of pi. We are fortunate that Mr. Hartman, one of our

instructors and the math team coordinator, can take it to the thousandth number by memory. Because of this, and because of his example also in the chemical elements, he has inaugurated a contest where the students are eligible from the entire school, 40 math classes, to enter.

And we have here the winners of that contest. Taking first place, Alvin DeLeon, a senior; Makita Ellis, a freshman; Quincey Martin-Chapman, a freshman. That's first, second and third place for the contest of pi.

In the chemical elements contest, Alvin DeLeon again, first place in the contest -- if they would stand as I had said their names -- Juliana L. Daxland, a freshman; and Julia Coltrinari, a senior.

I commend them, I ask my colleagues to commend them. Our Senate resolution has commended their efforts. Congratulations.

And I vote aye on the resolution.

ACTING PRESIDENT YOUNG: Thank you, Senator Maltese.

And we welcome this fine young

group of young people and their mentors. Congratulations on doing just such a great job, especially in the area of math. Keep up the great work and enjoy your day here in Albany.

(Applause.)

ACTING PRESIDENT YOUNG: Senator Skelos.

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

ACTING PRESIDENT YOUNG: The Secretary will read.

THE SECRETARY: Calendar Number 217, by Senator Maziarz, Senate Print 1630A, an act to amend Part E2 of Chapter 62 of the Laws of 2003.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 273, by Senator DeFrancisco, Senate Print 4391B, an act to amend the Executive Law, in relation to designation.

ACTING PRESIDENT YOUNG: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 287, by Senator Robach, Senate Print 2024, an act to amend the General Municipal Law, in relation to increasing.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 2. Senators Duane and Padavan recorded in the negative.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 337, by Senator Bonacic, Senate Print 480, an act to amend the Vehicle and Traffic Law, in relation to approaching.

ACTING PRESIDENT YOUNG: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 342, by Senator Rath, Senate Print 6184, an act to amend the Vehicle and Traffic Law, in relation to permitting.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 347, by Senator Little, Senate Print 5368, an act to amend the General Municipal Law, in relation to posting copies.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number

353, by Senator Marcellino, Senate Print 5760, an act in relation to requiring the Commissioner of Mental Retardation and Developmental Disabilities.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 356, by Senator Morahan, Senate Print 6819, an act to amend the Mental Hygiene Law, in relation to the establishment.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 391, by Senator Alesi, Senate Print 266, an act to amend the Correction Law, in relation to restricting.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 391 are Senators Duane, Montgomery and Perkins. Also Senator Hassell-Thompson.

Ayes, 52. Nays, 4.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 402, by Senator Saland, Senate Print 1087A, an act to amend the Family Court and others, in

relation to including.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT YOUNG: The bill is passed.

THE SECRETARY: Calendar Number 418, by Senator DeFrancisco, Senate Print 2421, an act to amend the Penal Law, in relation to expanding.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT YOUNG: The bill

is passed.

THE SECRETARY: Calendar Number 423, by Senator Young, Senate Print 3245, an act to amend the Penal Law, in relation to establishing.

ACTING PRESIDENT YOUNG: Read the last section.

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

ACTING PRESIDENT YOUNG: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT YOUNG: The bill is passed.

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

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

ACTING PRESIDENT YOUNG: No, there is not.

SENATOR SKELOS: There will be a conference of the Majority at 4:00 p.m. in the Majority Conference Room.

And there being no further business, I move we stand adjourned until Wednesday, March 12th, at 3:00 p.m.

ACTING PRESIDENT YOUNG: There will be a conference of the Majority at 4 p.m. in the Majority Conference Room.

On motion, the Senate stands adjourned until Wednesday, March 12th, at 3:00 p.m.

(Whereupon, at 3:32 p.m., the Senate adjourned.)