NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 19, 2008

11:05 a.m.

REGULAR SESSION

SENATOR GEORGE H. WINNER, Jr., Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT WINNER: 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 WINNER: In the absence of clergy, may we bow our heads for a moment of silence.

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

ACTING PRESIDENT WINNER: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, March 18, the Senate met pursuant to adjournment. The Journal of Monday, March 17, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT WINNER: 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 Bruno.

SENATOR BRUNO: Are there any substitutions at the desk, Mr. President? I move we accept those substitutions.

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: On page 27, Senator Hannon moves to discharge, from the Committee on Health, Assembly Bill Number 10039 and substitute it for the identical Senate Bill Number 7013, Third Reading Calendar 412.

ACTING PRESIDENT WINNER: Substitution ordered.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe we have a previously adopted resolution at the desk, 4702, that I had sponsored. May we have it at this time read

in its entirety, and we will then share some thoughts.

Thank you.

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 4702, commemorating Good Joes Day, 2008.

"WHEREAS, Saint Joseph is everyone's patron saint, and not just the patron saint of those who are fortunate to bear his name; and

"WHEREAS, The New York State Legislature is appreciative of the vital contributions of those good members known as 'Joseph'; and

"WHEREAS, The Society of Good Joes is celebrating its fiftieth year in memory of the late Joseph Addonizio, and its members have banded together under a common name in the spirit of camaraderie and good fellowship; and

"WHEREAS, Tradition holds that Saint Joseph is the patron saint of the working person, of all those who labor with

the dignity that only true humility imparts; and

"WHEREAS, On Saint Joseph's Day in March, the swallows return to Capistrano, heralding the conclusion of a long, cold winter and the advent of a new spring; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations and recognize this great day, Wednesday, March 19, 2008, in commemoration and deliberation of all Good Joes in the State of New York, which will be celebrated by the members of the Legislature on Thursday, March 27, 2008, in honor of all the Good Joes of this Empire State."

ACTING PRESIDENT WINNER: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President and colleagues.

You just heard a resolution commemorating really what amounts to the 50th anniversary of the Society of Good Joes. And Joseph Addonizio had created this with a spirit of impartiality, congeniality,

friendship for all Joes.

Now, for those of you that thought that he had me in mind, it's really St. Joseph. And, Tom, you may think it's the same thing, but it really isn't.

St. Joseph, if you think about the common working person as a carpenter, relating to everyone -- when you talk about Joes, in the spirit of friendship, everybody is a good Joe.

We have especially good Joes in Joe Robach, Joe Griffo, Joe Duane over here, who's changed his name.

(Laughter.)

SENATOR BRUNO: We had Joe DiMaggio out there, we had Joe Namath, we had a lot of -- Joe Louis, William Joseph Shakespeare, Joseph Michelangelo. And the list goes on and on and on.

(Laughter.)

SENATOR BRUNO: The working Joe. The GI Joe. A cup of joe that you have in the chamber when you're not supposed to.

(Laughter.)

SENATOR BRUNO: Now, St. Joseph

forgives you, so we forgive you.

(Laughter.)

SENATOR BRUNO: So today is a day that truly can be the first day of the rest of all of our lives.

A lot of history behind us, a lot of goings-on. But let us keep the spirit of goodwill, of optimism, of good cheer, of achievement that really commemorates St. Joseph and all of the other people who do so many good things on behalf of others.

And, Mr. President, I would ask everyone in this chamber to join in this resolution. Those that would make exceptions, please privately sneak up to the desk and take your name off.

(Laughter.)

SENATOR BRUNO: Other than that, I would ask that you put everyone on this resolution, because truly it commemorates the spirit of the day -- togetherness, friendship, partnering, going forward optimistically in a very upbeat way.

Thank you, Mr. President. Thank you, colleagues. Bless you, in the name of

St. Joseph.

ACTING PRESIDENT WINNER: This resolution was previously adopted on March 18.

And the resolution sponsored by Senator Joe Bruno is open for cosponsorship. If you do not wish to be a cosponsor, please notify the desk.

Senator Joe Bruno.

SENATOR BRUNO: Mr. President, I believe there are three previously passed resolutions, Numbers 4651, 4652, 4653. I would ask that they be read title only and move, again, for whatever comments are appropriate.

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: By Senator Alesi, Legislative Resolution Number 4651, honoring Shining Stars Daycare upon the occasion of its designation for special recognition as an inductee into the 2007 New York State Small Business Hall of Fame.

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Is this

Shining Stars Daycare? Is that what you said? I want to make sure I have the right resolution and I'm not speaking about Good Joes Day.

This resolution previously passed, and it's an extremely significant one, in that Shining Stars Daycare was inducted into the New York State Small Business Hall of Fame for the year 2007. A very, very significant accomplishment from a small business in my community in my Senate district.

Small businesses are responsible for 75 percent of the newly created jobs in the State of New York. And although we always talk about all of these big projects and the huge number of jobs that are being created -- that sometimes decreate over time -- the only constant in the State of New York is businesses that are small business that keep growing and doing the right thing and creating jobs.

Shining Stars Daycare is a full-service daycare center enterprise employing 63 people. That was some time ago. It began with -- excuse me, it began with

32 -- yes, right now. And it began with 32 children and has expanded six times, and now has a capacity of 244 children. An incredible accomplishment in what we are being told is a slowing economy.

Their business is in Liverpool, New York, in my district. And I want to commend them for this great honor. And I believe Mr. Penizotto is there today.

Is your wife Estelle here today?

MR. PENIZOTTO: She's in the Assembly.

SENATOR DeFRANCISCO: In the Assembly? Well, she would have been better off to be here, because this is a much more impressive body. But I hope she enjoys her stay over there.

(Laughter.)

SENATOR DeFRANCISCO: But congratulations, and keep growing jobs in our community. You're really one of the great companies in the State of New York.

ACTING PRESIDENT WINNER: Senator Valesky.

SENATOR VALESKY: Thank you,

Mr. President. I just want to join my colleague Senator DeFrancisco.

John, congratulations. They also have a facility based in East Syracuse, in my Senate district; I had an opportunity to see firsthand the good work that they are doing a year or so ago.

And congratulations on this award, well-deserved. Keep up the great work.

ACTING PRESIDENT WINNER: This resolution was previously adopted on March 11.

The Secretary will read.

THE SECRETARY: By Senator Alesi, Legislative Resolution Number 4652, honoring the Gooding Company upon the occasion of its designation for special recognition as an inductee into the 2007 New York State Small Business Hall of Fame.

ACTING PRESIDENT WINNER: This resolution was previously adopted on March 11.

The Secretary will read.

THE SECRETARY: By Senator Alesi, Legislative Resolution Number 4653, honoring Wurlitzer Capital Group, LLC/Audubon Machinery Corporation upon the occasion of its

designation for special recognition as an inductee into the 2007 New York State Small Business Hall of Fame.

ACTING PRESIDENT WINNER: Senator Rath.

SENATOR RATH: Thank you, Mr. Chairman.

I'd like to add my congratulations to the awardees, Wurlitzer Capital Group, LLC/Audubon Machinery Corp.

There are some folks that we know from back home, they are here. Joseph McMahon is here. Unfortunately, County Executive Chris Collins was not able to be here. And Mr. Schlehr, I believe, is here also. I should put my glasses on so I can read it, which is not something I'm able to do without my glasses anymore.

At any rate, I'd like to offer my congratulations and my thanks to all of you for your willingness to be the leaders that you have been throughout Western New York. It has been an exemplary move that you all have made.

And when you acquired the Oxygen

Generating System, how wonderful it was for you all to be able to participate by sending a generating system to Florida at the time of Hurricane Katrina.

Your new building, built on a remediated brownfield site, being awarded a "Green Building" designation, is certainly another thing that we take note of here in the Legislature, inasmuch as it's a continual fight trying to have brownfields remediated and getting those properties back on the tax roll.

So sincerest congratulations, keep up the good work, and we're very proud of you.

ACTING PRESIDENT WINNER: Thank you, Senator Rath.

Senator Maziarz.

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

I want to join my colleague Senator Rath in congratulating the Audubon Machinery Corporation and particularly Joe and his team. I know that their address, their corporate headquarters is actually listed in Senator Rath's district -- but really all the work,

the brain power, and the profits are made on Wurlitzer Drive in the City of North Tonawanda.

(Laughter.)

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

ACTING PRESIDENT WINNER: Thank you, Senator Maziarz.

Congratulations.

This resolution was also previously adopted on March 11.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we at this time have the noncontroversial reading of the calendar.

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: Calendar Number 218, by Senator Maziarz, Senate Print 1890A, an act to amend the Labor Law and the State Finance Law, in relation to the New York State Worker Protection Board.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 6. This

act shall take effect on the 90th day.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 231, by Senator Farley, Senate Print 1562, an act to amend the Public Health Law, in relation to the healthcare practitioner volunteer program.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 249, by Senator Robach, Senate Print 6832, an act to amend the Civil Service Law, in

relation to providing.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 412, substituted earlier by Member of the Assembly Gunther, Assembly Print Number 10039, an act to amend the New York State Medical Care Facilities Finance Agency Act.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT WINNER: The

bill is passed.

THE SECRETARY: Calendar Number 439, by Senator LaValle, Senate Print 2600, an act to amend the Education Law, in relation to hazing.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 460, by Senator Nozzolio, Senate Print 588A, an act to amend the General Municipal Law, in relation to participants.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 461, by Senator Larkin, Senate Print 1356, an act to remove from the Albert Wisner Memorial Public Library.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 463, by Senator Little, Senate Print 6633, an act to authorize the town of Ticonderoga, County of Essex.

ACTING PRESIDENT WINNER: 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 WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 467, by Senator Farley, Senate Print 918, an act to amend the Election Law and the State Finance Law, in relation to requiring.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 481, by Senator Padavan, Senate Print 3825, an act to amend the Real Property Law, in

relation to construction.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47. Nays, 2. Senators Hassell-Thompson and Perkins recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 507, by Senator Marcellino, Senate Print 617, an act to amend the Vehicle and Traffic Law, in relation to increasing.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 514, by Senator DeFrancisco, Senate Print 2741A, an act to amend the General Business Law and the Penal Law, in relation to operating.

ACTING PRESIDENT WINNER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect on the first of November.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 515, by Senator DeFrancisco, Senate Print 3271, an act to amend the Navigation Law, the Parks, Recreation and Historic Preservation Law, and the Vehicle and Traffic Law.

ACTING PRESIDENT WINNER: Read

the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 527, by Senator Padavan, Senate Print 69, an act to amend the Penal Law, in relation to seizure and forfeiture.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number

529, by Senator Golden, Senate Print 158, an act to amend the Penal Law, in relation to criminal use of public records.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 530, by Senator Morahan, Senate Print 246, an act to amend the Penal Law, in relation to providing.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 537, by Senator Trunzo, Senate Print 884, an act to amend the Penal Law, in relation to prohibiting.

ACTING PRESIDENT WINNER: Read the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WINNER: The bill is passed.

THE SECRETARY: Calendar Number 542, by Senator Fuschillo, Senate Print 1534, an act to amend the Penal Law, in relation to including.

ACTING PRESIDENT WINNER: Read

the last section.

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

ACTING PRESIDENT WINNER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT WINNER: The bill is passed.

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

SENATOR BRUNO: Mr. President, can we at this time return to motions and resolutions and recognize Senator Maziarz.

ACTING PRESIDENT WINNER: Motions and resolutions.

Senator Maziarz.

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

I do want to speak on Resolution Number 4652, our distinguished honorees on their induction into the Small Business Hall of Fame. The Gooding Company of Niagara County is included. The principal owner,

Jerry Hace, is here with us today.

Gooding Company was a commercial printer for a number of years in the City of Lockport -- actually, since the 1800s in the City of Lockport in Niagara County. And Jerry purchased the Gooding Company in 1990 and knew that in order to take the company into the next century, he'd have to embrace new technology. And he did that, with the help of the Small Business Development Center.

He's grown Gooding, doubled the number of employees that they have. They're an excellent employer, they have an excellent reputation. And they're a great part of the business community in the City of Lockport and in all of Niagara County.

So congratulations to you, Jerry, and thank you very much.

ACTING PRESIDENT WINNER: Thank you, Senator Maziarz.

And I'd like to give a round of applause to all these great business leaders.

(Applause.)

ACTING PRESIDENT WINNER: Senator DeFrancisco.

SENATOR DeFRANCISCO: On the same resolution, Stella Penizotto is here now, after her short visit to the Assembly.

And I just want to acknowledge that this is a much more impressive chamber honoring people of business, who we honor all the time here in the Senate by passing laws that help small and large businesses go forward and creating jobs. It's nice to have her here as well.

Thank you.

ACTING PRESIDENT WINNER: Thank you, Senator DeFrancisco.

(Applause.)

ACTING PRESIDENT WINNER: Senator Bruno.

SENATOR BRUNO: Mr. President, is there other business at the desk that we should tend to now?

ACTING PRESIDENT WINNER: Yes. We'll return to motions and resolutions.

Senator Robach.

SENATOR ROBACH: Yes, Mr. President.

On page 27, on behalf of Senator

Saland, I offer the following amendments to Calendar Number 414, Senate Print Number 1086, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT WINNER: So ordered.

Senator Bruno, that completes the business.

SENATOR BRUNO: Mr. President, we are graced by the presence of the occupational therapists right here.

And we want to welcome them here to the chamber and just applaud them on all the good things that they do to improve the quality of people's lives.

Thank you.

(Applause.)

ACTING PRESIDENT WINNER: Thank you, Senator Bruno.

SENATOR BRUNO: Mr. President, we're going to ask for an immediate conference of the Majority after session.

And there being no further business to come before the Senate at this time, I move that we stand adjourned until Wednesday,

March 26th, at 3:00 p.m., intervening days to be legislative days.

Happy Easter and safe passage. Thank you.

ACTING PRESIDENT WINNER: There will be an immediate meeting of the Majority Conference in Room 332.

On motion, the Senate stands adjourned until Wednesday, March 26th, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:30 a.m., the Senate adjourned.)