NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 13, 2010

3:49 p.m.

REGULAR SESSION

SENATOR TOBY ANN STAVISKY, Acting President

ANGELO J. APONTE, Secretary

P R O C E E D I N G S

ACTING PRESIDENT STAVISKY: The Senate will please come to order.

I ask everyone to rise and recite with me the Pledge of Allegiance to the Flag.

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

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

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

ACTING PRESIDENT STAVISKY: The reading of the Journal.

The Secretary will read.

THE SECRETARY: In Senate, Monday, April 12, the Senate met pursuant to adjournment. The Journal of Sunday, April 11, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT STAVISKY: 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 Klein.

SENATOR KLEIN: Madam President, at this time I move we pass the Resolution Calendar in its entirety, with the exception of Senate Resolutions 4602, 4601, 4642 and 4604.

ACTING PRESIDENT STAVISKY: All those in favor of adopting the Resolution Calendar in its entirety, with the exception of Senate Resolutions 4602, 4601, 4642 and 4604, please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STAVISKY: Opposed, nay.

(No response.)

ACTING PRESIDENT STAVISKY: The Resolution Calendar is adopted.

Senator Klein.

SENATOR KLEIN: Madam President,

at this time can we take up Senate Resolution 4601, by Senator Farley. I ask that the resolution be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT STAVISKY: The Secretary will read.

THE SECRETARY: Legislative Resolution 4601, by Senator Farley, commemorating the 190th Anniversary of the Town of Rotterdam, to be celebrated on April 14, 2010.

"WHEREAS, The State of New York takes great pride in acknowledging significant milestones in the distinguished histories of its esteemed municipalities; and

"WHEREAS, The Town of Rotterdam will celebrate its 190th Anniversary on April 14, 2010; and

"WHEREAS, The area that is now the Town of Rotterdam was settled in the early 1660s, predominantly by the Dutch; and

"WHEREAS, In 1819, residents of Schenectady began discussing settling off its Third and Fourth Wards into a separate town. A petition was presented to the state

Legislature on December 31, 1819; and

"WHEREAS, On April 14, 1820, the New York State Legislature adopted a law establishing the Town of Rotterdam; and

"WHEREAS, The town was named after the Town of Rotterdam in the Netherlands; and

"WHEREAS, Rotterdam enjoyed a thriving broom corn industry in the late 1800s; and

"WHEREAS, the Erie Canal and the addition of railroads in Rotterdam led to the creation of several hamlets, including Rotterdam Junction, South Schenectady, and Pattersonville; and

"WHEREAS, Rotterdam is now the proud home of hundreds of agricultural, industrial, and commercial businesses; and

"WHEREAS, The Town of Rotterdam has seen a steady increase in population and now has more than 28,000 residents; and

"WHEREAS, the State of New York is pleased to recognize this significant milestone in Rotterdam's distinguished history; now, therefore, be it

"RESOLVED, That this Legislative

Body pause in its deliberations to commemorate the 190th Anniversary of the Town of Rotterdam, to be celebrated on April 14, 2010; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to Town Supervisor Francis Del Gallo, and the board members of the Town of Rotterdam."

ACTING PRESIDENT STAVISKY: Senator Farley.

SENATOR FARLEY: Thank you very much, Madam Chair.

And also, Senator Klein, thank you for the courtesy of recognizing this incredible milestone.

We're talking about a community right nearby here. It's really the second stop on the Thruway as you go west.

1660 -- that is 190 years before we were even a country. And this is their anniversary, and we're very proud to have with us here almost the entire town fathers and mothers. And they're located right up here in the gallery. And I'd like to introduce them, if I may.

Francis (Frank) Del Gallo, the town supervisor; Robert Godlewski, the deputy supervisor; Gerard Parisi, town board member; Judy D'Agostino, Schenectady County legislator, who served here in the Senate with Senator Cook for many, many years; Anthony (Tony) Jasenski, Schenectady County legislator; Angelo Santabarbara, Schenectady County legislator; Holly Vellano, Schenectady County legislator; and also Michael Godlewski, the assistant town attorney.

We're honored to have you in our chamber, and we're very pleased to have the Senate honor this magnificent community on its 190th birthday. Congratulations and best wishes.

And, Madam President, I'd ask that you give the town fathers and mothers here the welcome of our chamber. Thank you.

ACTING PRESIDENT STAVISKY: Thank you, Senator Farley.

And welcome to the people from Rotterdam, and congratulations on your 190th birthday.

And Senator Farley will be here in

ten years to celebrate the 200th anniversary.

(Laughter.)

SENATOR FARLEY: Congratulations.

ACTING PRESIDENT STAVISKY: Are there any other Senators who wish to be heard on the resolution?

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

(Response of "Aye.")

ACTING PRESIDENT STAVISKY: Opposed, nay.

(No response.)

ACTING PRESIDENT STAVISKY: The resolution is adopted.

Senator Klein.

SENATOR KLEIN: Madam President, at this time can we take up Senate Resolution Number 4642, by Senator McDonald. I ask that the resolution be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT STAVISKY: The Secretary will read.

THE SECRETARY: By Senator McDonald, Senate Resolution 4642,

congratulating the Averill Park High School Girls Basketball Team and Coach Sean Organ upon the occasion of capturing both the New York State Public School Athletic association Class A Championship and the New York State Federation Class A Championship.

"WHEREAS, It is the sense of this Legislative Body to recognize and pay tribute to those young people within the State of New York who have inspired and brought pride to their school and community by achieving outstanding success in athletic competition; and

"WHEREAS, Attendant to such concern, and in full accord with its long-standing traditions, this Legislative Body is justly proud to honor the Averill Park High School Girls Basketball Team and Coach Sean Organ upon the occasion of capturing the New York State Public School Athletic association Class A Championship; and

"WHEREAS, The lady warriors won the first girls basketball championship for Averill Park High School when they beat

Lakeland High School 53 to 46 on Saturday, March 20, 2010, at Hudson Valley Community College. In addition, they are the Suburban Council Gold Division Champions, the Section II Class A Champions, and the Regional Class A Champions; and

"WHEREAS, The team also captured the Class A New York State Federation Championship by defeating St. Anthony's of Melville 60 to 48 on March 27, 2010, at the Glens Falls Civic Center; and

"WHEREAS, Ranked as the state's number-one Class A team all season long, the Lady warriors finished the year with a record of 26 and 1. The victory over St. Anthony's marked the first federation title for a Section II team in nine years, and the first ever Federation title, boys or girls, for Averill Park High School; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach Sean Organ and his assistants, skilled and inspirational tutors, respected for their ability to develop potential into excellence; and

"WHEREAS, The team's overall record is outstanding, and the team members were loyally and enthusiastically supported by family, fans, friends and the community at large; and

"WHEREAS, The hallmarks of the Averill Park High School Girls Basketball Team, from the opening game of the season to participation in the championship, were a sisterhood of athletic ability, of good sponsorship, of honor and of scholarship, demonstrating that these team players are second to none; and

"WHEREAS, Athletically and academically, the team members have proven themselves to be an unbeatable combination of talents reflecting favorably on their school; and

"WHEREAS, Coach Sean Organ has done a superb job in guiding, molding and inspiring the team members toward their goals; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach Sean Organ and his outstanding athletes have clearly made a

contribution to the spirit of excellence which is a tradition of their school; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the Averill Park High School Girls Basketball Team, its members -- Michela Ottati, Lauren Nunziato, Amanda Fitzgerald, Brittany O'Shea, Katie Duma, Alise Weisberg, Katie Hawes, Alison Nunziato, Brooke O'Shea, Molly Streb, Bridget Carney, and Amber Dushensky -- Coaches Sean Organ, Michael Cavotta, Vince Gaetani, Scott Keegan, and Derek Minkler; Trainer Meg Gosh; Managers Andrea Kronau and Emily Horton; and Athletic Director June MacGilfrey, on their outstanding season and overall team record; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Averill Park High School Girls Basketball Team, Coach Sean Organ, and the aforementioned staff."

ACTING PRESIDENT STAVISKY: Senator McDonald.

SENATOR McDONALD: Thank you, Madam President.

That sure is an impressive array of victories. And it's almost as impressive as those folks up there. Please stand up: The players and coaches from Averill Park High School.

(Applause.)

SENATOR McDONALD: Averill Park is a beautiful little community not very far from here, about 10, 15 miles at the most, in Rensselaer County.

These young people, as you can see, nice, clean-cut people, all on their way to college after they graduate. Hardworking, multidimensional -- many of them are playing more than one sport -- very good athletes. Most importantly, very nice young ladies. Good community people.

Their coaches, as you named them -- and I'm glad you did, some of the names are hard to read. Thank you -- the coaches did just a tremendous job.

It's the first time Averill Park has had a Federation winner, okay, in -- ever,

in Division A.

And it's especially gratifying that this wonderful team beat one of my colleagues' teams. Senator Marcellino, they beat a Melville high school. And I think it wasn't even close.

(Applause.)

SENATOR McDONALD: So thank you. It's an honor to have you here.

And thank you, Madam President.

ACTING PRESIDENT STAVISKY: Are there any other Senators who wish to be heard on this resolution?

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

I rise to congratulate these young ladies. You must be good if you beat St. Anthony's from Melville. Tough team; harsh group.

But, Madam President, you well know and we know that there are people in this hall today who are shadows who are visiting us, who are shadowing the members of this chamber for the day.

Like this group, these young people are good, clean-cut, hardworking. They represent their communities well and with pride. We rarely read about them in the media. You rarely hear about people like this in the media.

We hear about those who get in trouble -- drugs, DWIs, you name it -- committing all kinds of crimes, but we don't hear about and we should hear about the people who live good, honest lives, who contribute to their communities, who represent their communities with honor and with pride.

I would like to congratulate this team and Senator McDonald and the community and the young ladies and men who are shadowing us today, because you are what we're all proud of.

Stand up. Let's all see the people who are shadowing us. Stand up, because we're proud of you and you should be very proud.

(Applause.)

SENATOR MARCELLINO: I only wish we would read and see more of you in the media.

Thank you, Madam President.

ACTING PRESIDENT STAVISKY: Are there any other Senators who wish to be heard on the resolution?

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

(Response of "Aye.")

ACTING PRESIDENT STAVISKY: Opposed, nay.

(No response.)

ACTING PRESIDENT STAVISKY: The resolution is adopted.

Congratulations to the Averill Park team.

Senator Aubertine.

SENATOR AUBERTINE: Thank you, Madam President.

At this time can we take up Senate Resolution 4604, by Senator DeFrancisco. I ask that the resolution be read title only and move for its immediate adoption.

ACTING PRESIDENT STAVISKY: The Secretary will read.

THE SECRETARY: By Senator

DeFrancisco, Senate Resolution 4604, honoring Chief Petty Officer Jeremy K. Torrisi upon the occasion of receiving the Silver Star Medal.

ACTING PRESIDENT STAVISKY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Madam President.

This is truly an incredible individual that we're honoring today. Chief Petty Officer Jeremy Torrisi is unable to be here because he's still on duty serving our country.

He graduated from high school in 1994, and then he went right into the Marines. And he's been in the Marines for 16 years. He's a hospital corpsman. And in that capacity, he's assigned to the United States Marine Corps Special Operations Command in Afghanistan.

On his third tour -- I repeat that, third tour to Afghanistan, on June 26, 2008, his Marine organization, his division, was on a Special Operations mission to try to secure a high-profile target. And at that time the division came under very, very heavy fire and

very accurate fire, where several individuals were shot.

At that time because of the situation, that it was so dangerous, they were called back, those that could come back. Except there were several that were badly injured in the line of fire.

Torrisi sprang into action. He jumped out of his vehicle and ran 50 meters through enemy fire to administer aid to those in the rear vehicle. He then ran 50 to 75 more meters to the forward team to do the same thing.

Unable to administer care due to the sniper gunfire, Chief Petty Officer Torrisi launched grenade rounds from an M-203 grenade launcher, and the assailing gunfire stopped.

This soldier, then able to administer to the wounded, moved forward. He ushered wounded team members to the rear vehicle and then went to aid the wounded corpsmen. As he treated them, he was shot in the leg, but refused aid until the other injured individuals were tended to.

Air support was called in, and Chief Petty Officer Torrisi aided in the evacuation of wounded team members to safer locations.

This action by Chief Petty Officer Torrisi saved the lives of the four people. And as a result of that, he was given the third-highest honor for valor; namely, the Silver Star Medal. If this deserves the third-highest award given, I'm not so sure what you have to do to get the first.

This is truly an inspiration to all of those who understand what our military is going through on a daily basis. I'm sure there's many, many other stories like this throughout the country. But we're here today to honor Chief Petty Officer Jeremy Torrisi for receiving the Silver Star Medal.

And we're hoping that he'll be able to come back to Onondaga County in the near future so that I can personally award this to him on behalf of this entire Senate.

So thank you, Madam President, for bringing up this privileged resolution and for allowing me to speak on it.

ACTING PRESIDENT STAVISKY: Thank you, Senator DeFrancisco.

Are there any other Senators who wish to be heard on this resolution?

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

(Response of "Aye.")

ACTING PRESIDENT STAVISKY: Opposed, nay.

(No response.)

ACTING PRESIDENT STAVISKY: The resolution is adopted.

Senator DeFrancisco has indicated that he would like to open the resolution up for cosponsorship by the entire house. Any Senator wishing not to be on the resolution please notify the desk.

Senator Aubertine.

SENATOR AUBERTINE: Thank you, Madam President.

At this time I move to take up Senate Resolution Number 4602, by Senator Adams. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT STAVISKY: The Secretary will read.

THE SECRETARY: By Senator Adams, Senate Resolution 4602, memorializing Governor David A. Paterson to proclaim May 2010 as Be Kind to Animals Awareness Month in the State of New York.

ACTING PRESIDENT STAVISKY: Are there any Senators who wish to be heard on this resolution?

Senator Adams.

SENATOR ADAMS: Thank you very much, Madam President.

I think that it's important -- as a matter of fact, you look great up there, Madam President, if I may say.

ACTING PRESIDENT STAVISKY: Thank you, Senator Adams.

SENATOR ADAMS: You know, oftentimes when we think of animals we don't understand how much a role they play inside a household as actually part of a family. And I started an organization called Legislators for the Humane Treatment of Animals.

The number of letters I received

yesterday when it was stated that three horses were put to death by the New York City Police Department -- and even if it was for good reasons or bad reasons, it impacts a countless number of New Yorkers who believe our furry family friends are more than just insignificant pets, they're part of our households. And we need think about that when we make laws and how we decide the humane treatment of animals.

A great indicator of how we are as a society is how we treat the pets in our lives, how we treat animals in our lives. And New York State is well known for some very fair and practical ways in treating animals, and the indicators are how widespread animals are in our lives.

I have a pet dog, and I'm pretty sure many of us have various pets. If it's from a turtle to a poodle, it's imperative that we treat our animals in a fair way. That's a fair way of showing how we are as citizens.

Thank you, Madam President.

ACTING PRESIDENT STAVISKY: Thank

you, Senator Adams.

Are there any other Senators who wish to be heard on this resolution?

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

(Response of "Aye.")

ACTING PRESIDENT STAVISKY: Opposed, nay.

(No response.)

ACTING PRESIDENT STAVISKY: The resolution is adopted.

Senator Adams has indicated that he would like to open the resolution up for cosponsorship by the entire house. Any Senator not wishing to be on the resolution please notify the desk.

Senator Aubertine.

SENATOR AUBERTINE: Thank you, Madam President.

Can we return to the reports of standing committees. I believe there's a report of the Finance Committee at the desk.

ACTING PRESIDENT STAVISKY: Returning to the reports of standing

committees, there is a report of the Finance Committee at the desk.

The Secretary will read.

THE SECRETARY: Senator C. Kruger, from the Committee on Finance, reports the following nomination.

As director of the Independent Authorities Budget Office, David J. Kidera, of Delmar.

ACTING PRESIDENT STAVISKY: Senator Kruger.

SENATOR CARL KRUGER: Thank you, Madam President. Please move the nomination.

ACTING PRESIDENT STAVISKY: Are there any Senators who wish to be heard on the nomination?

(No response.)

ACTING PRESIDENT STAVISKY: The question is on the motion to confirm the nomination of David J. Kidera, of Delmar, as director of the Independent Authorities Budget Office. All those in favor please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STAVISKY:

Opposed, nay.

(No response.)

ACTING PRESIDENT STAVISKY: The motion carries. The nomination is confirmed.

Mr. Kidera is joined in the gallery this afternoon by his wife, Chris.

Congratulations on your confirmation.

(Applause.)

ACTING PRESIDENT STAVISKY: Senator Breslin.

SENATOR BRESLIN: Thank you very much, Madam President. I apologize; I was with three shadows, high school students from the area.

And I just wanted to take a moment to congratulate the Governor on the choice of David Kidera, who's been such a terrific public servant for over 30 years.

And no one, no one is better suited for this new position. As I said in the committee hearing, that if you look up "apolitical" in the dictionary, you'd probably see Dave Kidera.

It's a wonderful choice, and he's

with his wonderful wife and son.

Congratulations, Dave.

ACTING PRESIDENT STAVISKY: Thank you, Senator Breslin.

The Secretary will continue to read.

THE SECRETARY: As commissioner for the Port Authority of New York and New Jersey, Jeffrey A. Moerdler, of Riverdale.

As a member of the Port of Oswego Authority, Gerald H. Brown, of Oswego, and John K. Smith, of Oswego.

As a member of the Public Employment Relations Board, Sheila Cole, of Delmar.

As a member of the State Banking Board, Franz Leichter, of New York City.

As a member of the Board of Directors of the Great Lakes Protection Fund, Matthew J. Driscoll, of Syracuse.

As a member of the Republic Airport Commission, Robert W. Bodenmiller, of West Babylon.

As a member of the Medical Advisory Committee, John Angerosa, M.D., of Scotia;

Jill Braverman-Panza, M.D., of Clifton Park; Douglas Grant Fish, M.D., of Schenectady; Carl P. Sahler, Jr., M.D., Ph.D., of Canandaigua; Anthony Tartaglia, M.D., of Delmar; and Raul Vazquez, M.D., of Williamsville.

As members of the Advisory Council on Alcoholism and Substance Abuse Services, Nidia E. Martinez-Godfrey, of Kingston, and Paul N. Samuels, of New York City.

As a member of the Citizens Policy and Complaint Review Council, Douglas E. Landon, of Amsterdam, and Burton Schoenbach, of New York City.

As a member of the Continuing Care Retirement Community Council, Robert G. Spann, South Setauket.

As members of the Minority Health Council, Melody S. Goodman, of Queens; Antonio Pagan, of New York City; and Susan C. Scrimshaw, Ph.D., of Troy.

As a member of the State Hospital Review and Planning Council, Ellen E. Grant, Ph.D., of Grand Island.

And as a member of the Board of Visitors of the Broome Developmental

Disabilities Services Office, Ann Brigid Sullivan, of Morris.

ACTING PRESIDENT STAVISKY: Senator Kruger.

SENATOR CARL KRUGER: Yes, thank you, Madam President. Would you please move these nominations.

ACTING PRESIDENT STAVISKY: Are there any Senators wishing to be heard on this motion to confirm the nominations?

Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, although I'll be voting aye to all the recommendations to these boards, I'll be voting in the negative for the commissioner of the Port Authority.

ACTING PRESIDENT STAVISKY: Senator Fuschillo will be recorded in the negative on the confirmation of Jeffrey Moerdler to the Port Authority of New York and New Jersey.

Is there anyone else who wishes to speak on the nominations?

The question is on the motion to confirm the nominations. All those in favor

please signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT STAVISKY: Opposed, nay.

(No response.)

ACTING PRESIDENT STAVISKY: The motion carries, and the nominations are confirmed.

Senator Aubertine.

SENATOR AUBERTINE: Thank you, Madam President.

Can we return to motions and resolutions. I believe there's a resolution at the desk by Senator Sampson. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT STAVISKY: Returning to the order of motions and resolutions.

Senator Aubertine, has this resolution been deemed privileged and submitted by the office of the Temporary President?

SENATOR AUBERTINE: Yes, Madam President.

ACTING PRESIDENT STAVISKY: The Secretary will read.

THE SECRETARY: By Senator Sampson, legislative resolution commemorating the 25th Anniversary of The Jewish Association for Services for the Aged Senior Center at the H.E.S.

ACTING PRESIDENT STAVISKY: Are there any Senators who wish to be heard on this resolution?

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

(Response of "Aye.")

ACTING PRESIDENT STAVISKY: Opposed, nay.

(No response.)

ACTING PRESIDENT STAVISKY: The resolution is adopted.

Senator Sampson has indicated that he would like to open this resolution up for cosponsorship by the entire house. Any Senator not wishing to be on the resolution please notify the desk.

Senator Aubertine.

SENATOR AUBERTINE: Thank you, Madam President.

I believe there's a resolution at the desk by Senator Savino. I ask that the title of the resolution be read and move for its immediate adoption.

ACTING PRESIDENT STAVISKY: Senator Aubertine, has this resolution been deemed privileged and submitted by the office of the Temporary President?

SENATOR AUBERTINE: Yes, Madam President.

ACTING PRESIDENT STAVISKY: The Secretary will read.

THE SECRETARY: By Senator Savino, legislative resolution paying just tribute and remembering the 29 mining disaster victims of Montcoal, West Virginia, and expressing the deepest condolences of the people from the State of New York.

ACTING PRESIDENT STAVISKY: Senator Savino.

SENATOR SAVINO: Thank you, Madam President.

On April 5, 2010, there was a

tremendous tragedy that occurred in the town of Montcoal, West Virginia, when there was a massive underground explosion at the Massey Upper Branch Mine. It was the worst mining disaster in 25 years, claiming 29 lives.

This tragedy has captured the attention of both the nation and those of us here in New York State, and it is appropriate that we stop and reflect upon the tragedy that day and commemorate it here on the floor of the New York State Senate, and convey our support and condolences to Governor Joe Manchin of West Virginia as well as the families of the victims.

But we also have a much higher calling here. We have a calling to join the members of the United Mine Workers union as well as the members of the Congress who are calling and demanding for greater safety standards and enforcement against all mine operators, but particularly this one.

The United Mine Workers have a very long, storied history in the American labor movement. Among their leaders have been great names like John L. Lewis and Mother Jones.

Their history is full of legendary other events and names, like the Molly Maguires; the Lattimer Massacre; the Ludlow Massacre; Matewan and the Battle of Blair Mountain; Paint Creek, Cabin Creek, and Buffalo Creek; and Bloody Harlan.

Despite the threat of physical harm over the centuries, and economic ruin, miners have constantly struggled against great odds to achieve their goals: The eight-hour work day that they achieved in 1898, collective bargaining rights for mine workers in 1933, health and retirement benefits in 1946, health and safety protections in 1969.

They successfully lobbied Congress to change the law and establish the Federal Coal Mine Safety Act of 1952, which called for annual evaluations and inspections of underground coal mines, and charging the Bureau of Mines to issue citations and imminent danger withdrawals.

Well, here's what we know now about what happened at Upper Branch, owned by the Massey Mine Company. At the time of this disaster, they were contesting millions of

dollars in major safety violations levied against this mine. At his Labor Day anti-union rally -- the Labor Day anti-union rally -- the CEO of Massey mocked Washington politicians and local elected officials who attempt to ensure mine safety, calling their efforts "as silly as global warming."

The penalties that were imposed mean nothing to this profit-bound company, nor does it to other profit-bound multinational energy companies. In truth, this explosion at Upper Big Branch was just a tip of the iceberg.

As I said, the story is still being written about what happened at Upper Big Branch. There will be other penalties levied. But we need to change the way the mining industry operates in this country to protect the thousands of people who depend upon the industry so that they can put food on the table for their families and provide energy at a low cost to Americans.

It has been determined that the New York State --

ACTING PRESIDENT STAVISKY:

Senator, can you hold it just a moment.

SENATOR SAVINO: Yes.

ACTING PRESIDENT STAVISKY: If we could have a little quiet in the chamber so that Senator Savino can be heard.

Thank you. Please continue.

SENATOR SAVINO: It has been determined that the New York State Pension System and the Common Retirement Fund had invested some of our pension funds into Massey, and we have requested that the Comptroller review that policy. And in fact, today Tom DiNapoli himself called for the resignation of the CEO, Don Blankenship, of Massey for his responsibility of this tragic accident.

So while it's important that we stand here today and we commemorate what happened down there, and we send our condolences, I am reminded of the words of one of the greatest organizers and a legend in the United Mine Workers, and that was Mother Jones, who would tell us today: "Pray for the dead, but fight like hell for the living."

ACTING PRESIDENT STAVISKY: Thank

you, Senator Savino.

Are there any other Senators who wish to be heard on this resolution?

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

(Response of "Aye.")

ACTING PRESIDENT STAVISKY: Opposed, nay.

(No response.)

ACTING PRESIDENT STAVISKY: The resolution is adopted.

Senator Savino has indicated that she would like to open the resolution up for cosponsorship by the entire house. Any Senator not wishing to be on the resolution please notify the desk.

Senator Aubertine.

SENATOR AUBERTINE: Thank you, Madam President.

On behalf of Senator Parker, on page 18 I offer the following amendments to Calendar Number 298, Senate Print Number 3601A, and ask that said bill retain its place on the Third Reading Calendar.

Also, on behalf of Senator Stachowski, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause: Senate Number 2790.

ACTING PRESIDENT STAVISKY: So ordered.

Senator Aubertine.

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

ACTING PRESIDENT STAVISKY: Senator Aubertine, the desk is clear.

SENATOR AUBERTINE: There being no further business at the desk, I move that we adjourn until Wednesday, April 14th, at 11:00 a.m.

ACTING PRESIDENT STAVISKY: There being no further business to come before the Senate, on motion, the Senate stands adjourned until Wednesday, April 14th, at 11:00 a.m.

(Whereupon, at 4:25 p.m., the Senate adjourned.)