NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

April 18, 2005

3:08 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will please 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.)

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

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

THE PRESIDENT: At the request of Senator Parker, we do have someone with us who would like to give the invocation: Reverend Pastor William Hooper, from New Wine Christian Center Church in York, Pennsylvania.

REVEREND HOOPER: Father, we thank You for this hour You have given us. We thank You for Your love, for Your mercy, and for Your grace.

We ask, Father, that You would give this body the wisdom and understanding to conduct the business that will make this

nation a great nation.

We ask, Father, that each one here will understand and know that there is none greater than You. But because You love us, You will pass Your love and Your mercy and Your grace onto us.

Bless this congregation, bless this gathering, and that they may be a blessing for this state. In Jesus' name, amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Sunday, April 17, the Senate met pursuant to adjournment. The Journal of Saturday, April 16, was read and approved. On motion, Senate adjourned.

THE PRESIDENT: 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 Fuschillo.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Marcellino, I wish to call up Senate Print Number 741, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 176, by Senator Marcellino, Senate Print 741, an act to amend the Vehicle and Traffic Law.

THE PRESIDENT: Could we please have order in the chamber, please.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the bill was passed and ask that the bill be restored to the order of third reading.

THE PRESIDENT: I'm going to have to ask again that individuals take their conversations out of the chamber. Thank you.

Go ahead, Senator Fuschillo.

SENATOR FUSCHILLO: Madam President, thank you.

I now move to reconsider the vote by which the bill was passed and ask that said bill be restored to the order of third reading.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR FUSCHILLO: I now move to recommit Senate Print Number 741, Calendar Number 176 on the order of third reading, to the Committee on Transportation, with instructions to strike the enacting clause.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Okay. Thank you.

Madam President, on behalf of Senator Little, I move to commit Senate Print Number 2847, Calendar Number 569 on the order of first report, to the Committee on Finance.

THE PRESIDENT: So ordered.

SENATOR FUSCHILLO: Madam President, on behalf of Senator LaValle, on page number 14 I offer the following amendments to Calendar Number 203, Senate

Print Number 685, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Wright, on page number 22 I offer the following amendments to Calendar Number 373, Senate Print Number 3244, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: Madam President, on behalf of Senator Spano, on page number 35 I offer the following amendments to Calendar Number 537, Senate Print Number 3979, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: Those amendments are received, and that bill will retain its place on the Third Reading Calendar.

SENATOR FUSCHILLO: Thank you.

THE PRESIDENT: Thank you,

Senator Fuschillo, for your patience.

Senator Skelos.

SENATOR SKELOS: Madam President, I believe there's a substitution at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 25, Senator Spano moves to discharge, from the Committee on Crime Victims, Crime and Correction, Assembly Bill Number 1236 and substitute it for the identical Senate Bill Number 3124, Third Reading Calendar 418.

THE PRESIDENT: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a Resolution 1460 at the desk by Senator Libous. If we could have it read in its entirety and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Libous, Legislative Resolution Number 1460, congratulating the Seton Catholic Central

Girls Basketball Team and Coach Colleen Jayne upon the occasion of capturing the Class C Championship.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this state, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success and developing a sense of fair play and competition; and

"WHEREAS, This Legislative Body is justly proud to congratulate the Seton Catholic Central Girls Basketball Team and Coach Colleen Jayne upon the occasion of capturing the Class C Championship; and

"WHEREAS, The Seton Catholic Central Girls Basketball Team won its first girls basketball state championship with a 48-40 overtime victory against Brushton-Moira

in the Class C finals at Hudson Valley Community College. The team finished its season with a 16-8 record; and

"WHEREAS, Claudia Mazza remarkably scored five points in the waning seconds of regulation to force the game into overtime. She then added five additional points in the extra period to boost her game-high total to 15; and

"WHEREAS, With the shot clock winding down and her team in need, Deirdre Torto sunk her third three-pointer of the game with just 1:24 remaining in overtime, to put the game out of reach for the opposition; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach Colleen Jayne, a skilled and inspirational tutor, respected for her ability to develop potential into excellence; and

"WHEREAS, The hallmarks of the Seton Catholic Central Girls Basketball Team, from the opening game of the season to participation in the championship, were a sisterhood of athletic ability, of good

sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach Colleen Jayne and her 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 Seton Catholic Central Girls Basketball Team, its members -- Megan Bellingham, Kate Canny, Allison Curley, Katie Egitto, Elizabeth Fox, Ellie Garbade, Betsy Lane, Claudia Mazza, Anna McGoff, Amy Miller, Milissa Miller, Kelsey Myette, Suzy Precopio, Colleen Regan, Claire Salamida and Deirdre Torto -- and Coach Colleen Jayne on their outstanding season and overall team record; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Seton Catholic Central Girls Basketball

Team and to Coach Colleen Jayne."

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

It is indeed an honor for me to rise today to honor the Seton Catholic Central Girls Basketball Team. They are with us today, along with the principal of the school, Kathleen Dwyer, Coach Colleen Jayne, as was mentioned, assistant coaches, and a few parents.

Senator Little tells me that the name of the team that they beat was Brushton-Moira. Moe-ira is the proper pronunciation.

And it was quite a championship game, actually. Seton was seeded the fifth team in the tournament, and they weren't expected to win. As I mentioned in talking to the girls earlier, I am quite proud of their 16 and 8 record. They don't like me to mention the eight losses. But usually it's out of defeat and strength and opportunity, and that strength and opportunity came, and I'm sure that they learned from those eight

losses and won a championship that they weren't supposed to win.

As mentioned in the reading of the resolution, Claudia Mazza was remarkable, in scoring five points in the remaining seconds of regulation, to force the game into overtime. They had to go into that extra period. And then she added an additional five points, and then Deirdre Torto sank her third three-pointer to ice the game for Seton.

And when I asked earlier and met with the ladies and asked them who was the star of the team, they referenced to me that there was no one star, that they were a team and that they played together. And that's, Madam President, what brought the championship trophy to this group.

They are a remarkable group. I had fun with them earlier. They had lunch, we brought them to the office, we talked about different things about state government. One of the players asked me -- and maybe some of the colleagues could help -- they asked me what we did all day as senators. And after I fumbled and stuttered a little bit, I tried to

explain what our role was here in the State Legislature.

But we back home are very, very proud of this team. They showed great discipline, perseverance.

And certainly it is a great honor -- and it's been noted by Senator Bruno, who has honored a number of state champions from his district over the years, that the nice thing about this is that your names, as read today, are going to be etched in the record here at the State Senate.

It goes into the record and, you know, years from now it can be looked upon that when you have children and grandchildren, they can go into the record of the State Senate and on this day see that each of you were honored, you were honored for being state champions, and that each of your names were recognized on the floor of the Senate.

So, Madam President, as I said, it is a great honor for me to have them here, and I would ask my colleagues to join me in honoring the Class C girls basketball champions for the state, Seton Catholic

Central.

THE PRESIDENT: On the resolution, all in favor please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Congratulations and best wishes for similar success along the way.

(Applause.)

THE PRESIDENT: Senator Skelos.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 224, by Senator Meier, Senate Print 2521A, an act in relation to adjusting certain state aid payments.

THE PRESIDENT: There is a local fiscal impact note at the desk.

Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 316, by Senator LaValle, Senate Print 2963, an act to amend the General Business Law, in relation to prohibiting persons.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 374, by Senator Little, Senate Print 3247, an act to amend the Civil Service Law, in relation to providing for binding arbitration.

THE PRESIDENT: Read the last

section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 377, by Senator Fuschillo, Senate Print 1430A, an act to authorize the French Speaking Baptist Church to retroactively apply.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 431, by Senator Saland, Senate Print 3165A, an act to amend the Education Law, in relation to

immunizations.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date and in the same manner as Chapter 477 of the laws of 2004.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 440, by Senator Robach, Senate Print 3639, an act to amend the Retirement and Social Security Law and the General Municipal Law, in relation to certain impairments.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 443, by Senator Maziarz, Senate Print 3381, an act to amend the Labor Law, in relation to requiring prevailing wages.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 453, by Senator Golden, Senate Print 1826, an act to amend the Penal Law, in relation to establishing the crime of criminal neglect.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 454, by Senator Golden, Senate Print 1827, an act to amend the Penal Law, in relation to financial exploitation of the elderly.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 457, by Senator Skelos, Senate Print 2391, an act to amend the Penal Law, in relation to causing the false report.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

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

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 477, by Senator Johnson --

SENATOR SKELOS: Lay it aside for the day, please.

THE PRESIDENT: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 478, by Senator Nozzolio, Senate Print 1567, an act to amend the Vehicle and Traffic Law, in relation to allowing.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is

passed.

THE SECRETARY: Calendar Number 498, by Senator Winner, Senate Print 2438, an act to amend the Tax Law, in relation to sales and compensating use taxes.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 525, by Senator Balboni, Senate Print 2579, an act to authorize the Village of Floral Park to file an application.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays,

1. Senator Bonacic recorded in the negative.

THE PRESIDENT: The bill is passed.

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

SENATOR SKELOS: Thank you, Madam President.

I don't believe there's a controversial reading. So what we will be doing, there's going to be an immediate meeting of the Rules Committee in the Majority Conference Room. The Rules Committee report will be brought back to the floor, which will be accepted, and then there will be a motion to petition a bill out of committee.

So there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

THE PRESIDENT: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 3:26 p.m.)

(Whereupon, the Senate reconvened

at 3:42 p.m.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read.

THE PRESIDENT: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 4583, by Senator Meier, an act to amend Chapter 58 of the Laws of 2005;

And Senate Print 4584, by Senator Marcellino, an act to amend the Vehicle and Traffic Law.

Both bills ordered direct to third reading.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

THE PRESIDENT: All in favor of accepting the report of the Rules Committee

please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report is accepted.

Senator Skelos.

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

THE PRESIDENT: No, there isn't, Senator.

Oh, excuse me, an updated report. There is some housekeeping.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR FARLEY: A little housekeeping here.

On behalf of Senator Volker, I wish to call up his bill, Senate Print 877, which was recalled from the Assembly, and it's now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 449, by Senator Volker, Senate Print 877, an act to amend the Criminal Procedure Law.

SENATOR FARLEY: Madam President, I now move to reconsider the vote by which this bill passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

SENATOR FARLEY: I now offer the following amendments.

THE PRESIDENT: The amendments are received, Senator.

Senator Skelos.

SENATOR SKELOS: I believe Senator Valesky has a motion.

THE PRESIDENT: Senator Valesky.

SENATOR VALESKY: Thank you, Madam President.

I do have a motion at the desk. I would like to have it called up at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senate Print

Number 2956, by Senator Valesky, an act to amend the Military Law.

THE PRESIDENT: Senator Valesky.

SENATOR VALESKY: Thank you, Madam President.

THE PRESIDENT: You're welcome.

SENATOR VALESKY: At last count the State of New York had over 5,500 active-duty National Guard members serving in combat, in faraway places like Iraq and Afghanistan, in the War on Terror.

I believe we owe it to these individuals, who are placing their lives on the line in defense of this nation and in defense of the freedoms and the democracy that we enjoy here, we in the State of New York owe it to them and to their families to take the kinds of actions, as this Legislature has done in the past, to continue to provide for their well-being.

There will be those of those active-duty National Guard members who unfortunately will not be returning; they will pay the ultimate sacrifice. And when they do that, they often leave spouses, children and

others behind. And this bill, Senate Bill 2956, I believe would go a long way toward providing some financial stability for their families.

It does two things, very simply. First of all, it would create a life insurance policy in the amount of $350,000.

Now, as many of you may know, the federal government, since 1908, has provided a death benefit for those military personnel killed in combat. Unfortunately, that stands at only a little over $12,000. And while there are efforts underway at the federal level, I believe it's prudent for us to place into New York statute a $350,000 life insurance policy paid for by the State of the New York for these members of the New York National Guard.

Second, it also allows those New Yorkers who wish to contribute to members of the military and their families a way to do so, by creating an income-tax checkoff to allow them to fund and be financially supportive of active-duty members and their families.

We utilize this in the State of New York for a number of worthy causes, and I think it makes a lot of sense to add to that list an income-tax checkoff opportunity for the citizens of New York State to express their gratitude and their appreciation and their support of our military men and women.

So, Madam President, I ask that Senate Bill 2956 be reported out of committee and to the floor, and I encourage my colleagues to support the motion.

Thank you.

THE PRESIDENT: All those Senators in favor of the petition out of committee please signify by raising your hands.

THE SECRETARY: Those recorded in agreement are Senators Breslin, Brown, Dilan, Duane, Gonzalez, Hassell-Thompson, Klein, L. Krueger, C. Kruger, Montgomery, Onorato, Oppenheimer, Parker, Paterson, Sabini, Savino, Serrano, A. Smith, M. Smith, Stachowski, Stavisky and Valesky.

THE PRESIDENT: The petition is not agreed to.

Senator Skelos.

SENATOR SKELOS: Madam President, there being no further business to come before the Senate, I move we stand adjourned until Tuesday, April 19th, at 3:00 p.m.

THE PRESIDENT: There being no further business, on motion, the Senate stands adjourned until Tuesday, April 19th, 3:00 p.m.

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