NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 15, 2006

11:03 a.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, please.

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

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate Tuesday, March 14, the Senate met pursuant to adjournment. The Journal of Monday, March 13, 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 Little.

SENATOR LITTLE: Thank you, Madam President.

On behalf of Senator Morahan, on page number 29 I offer the following amendments to Calendar Number 443, Senate Print Number 6909, and I 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 LITTLE: Thank you.

Also, Madam President, on behalf of Senator Skelos, on page number 12, I offer the following amendments to Calendar Number 162, Senate Print Number 4381, and I ask that that bill will retain its place on Third Reading Calendar.

THE PRESIDENT: Those amendments

are also received, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Madam President, Resolution 3047, by Senator Larkin, is at the desk. This resolution was previously adopted on January 10th. If we could have it read at this time and then recognize Senator Larkin.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 3047, congratulating the Monroe-Woodbury High School Football Team and Coach Pat D'Aliso upon the occasion of capturing the 2005 New York State Class AA 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, The Monroe-Woodbury High School Crusaders Football Team are the 2005 New York Class AA Champions; and

"WHEREAS, The Crusaders defeated Webster Thomas High School 32-10 at the Carrier Dome in Syracuse, New York, to finish the season with a perfect 12-0 record and become the first team from Section IX to win the Class AA title; and

"WHEREAS, The Monroe-Woodbury High School Football Team was led by Quarterback Greg Sullivan, who was named the game's most valuable player; defensive end Mike Attansio, who was named the top defensive lineman; Chris Johnson, who was named the most valuable offensive back; Tim Dorsey, who was named the top defensive back; and Mike Septh, who received the sportsmanship award; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Coach Pat D'Aliso, a skilled

and inspirational tutor, respected for his 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 Monroe-Woodbury High School Football Team, from the opening game of the season to participation in the championship, were a brotherhood of athletic ability, of good sportsmanship, 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 Monroe-Woodbury High School; and

"WHEREAS, Coach Pat D'Aliso has done a superb job in guiding, molding and inspiring the team members toward their goals; and

"WHEREAS, Sports competition instills the value of teamwork, pride and accomplishment, and Coach Pat D'Aliso and the outstanding athletes on the Monroe-Woodbury High School Football Team 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 Monroe-Woodbury High School Football Team and Coach Pat D'Aliso on their outstanding season and overall team record; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Monroe-Woodbury High School Football Team and to Coach Pat D'Aliso."

THE PRESIDENT: Senator Larkin.

SENATOR LARKIN: Thank you, Madam President.

You know, we're here today to honor not just a football team but the group that goes with the football team -- the parents, the faculty who prepared them for their

studies, who prepared them for their leadership, who prepared them for dealing with other human beings off the field as well as on the field.

When you start to look at this team here, led by Pat D'Aliso, what did they do? Had a perfect year. That shows the leadership from the school on down to that young man who gets in the last few minutes. It showed the leadership -- my good friend Michael Nozzolio is at a meeting now, but I think he's really hiding, because he had to give them a bushel of apples -- right, guys? And they ate them all, because we beat them.

This is a team that really emphasizes -- Madam President, the Governor called yesterday because when he became a Member of the Assembly, the first school district he visited was Monroe-Woodbury when he was an Assemblyman, George Pataki, in 1985. And he said, "Tell them all I congratulate them for your achievements."

You know, when you look at Greg Sullivan, when you made a quarterback last year -- right, Pat? -- he had been playing

defense and then became a quarterback and led them straight through. When they went and played at the Carrier Dome this past fall, Webster got off to a great start. Right? They scored first. And that was the last time they saw the football. Because from then on, it was Monroe-Woodbury, with their leadership, their talent, and their dedication -- not just a dedication to show off, but a dedication to show what you folks are made of. And you did a super job.

We're proud to have you here today. As my good friend and colleague Jim Wright said to me, who represents the 10th Mountain Division, he said: "That's what future leaders are all made about."

And I am very proud. There's nothing makes an individual here in this chamber prouder than to see young men and women succeed, and you succeeded with excellence.

Madam President, Monroe-Woodbury football champions, New York State AA this year.

(Applause.)

THE PRESIDENT: The resolution was previously adopted.

Congratulations. I'm confident, as President of the Senate, that the skills that made you successful in sports will continue to enhance you in your career and throughout your lives.

And we also have Senator Nozzolio here, who I believe would like to speak.

SENATOR NOZZOLIO: Thank you, Madam President. On the resolution.

Madam President, I would like to congratulate this fine group of young men on the occasion of their victory. That that victory was hard fought, and I was very pleased to be in the stands. Unfortunately, I wasn't rooting for Senator Larkin and this great organization of athletes.

But your victory cost me a bushel of apples, and that bushel was given upon the occasion of your victory. That we certainly were not happy that Webster Thomas, which was a fine group of athletes in their own right, met your opposition. And it was a great contest of two wonderful schools. I couldn't

have lost a bushel of apples to a better senator than Senator Larkin.

And that I can tell you Senator Larkin was fervently supporting this great athletic endeavor, these fine young athletes and fine leaders of the future.

Senator Larkin, congratulations. Again, my hat's off to you and to your wonderful constituents. You have a lot to be proud of.

Thank you, Madam President.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Yes, thank you.

I just wish to offer my congratulations and say how pleased I am with Senator Nozzolio. He not only lost a bushel of apples to Senator Larkin, he lost a bushel of apples to me on an earlier bet.

So, Senator Nozzolio, keep those apples coming, because we've got winners all over this chamber.

Congratulations to those athletes.

THE PRESIDENT: Senator Morahan.

SENATOR MORAHAN: Yes, Madam President, there's a special resolution by

Senator Montgomery at the desk. I would ask that the title only be read and that we pass the resolution.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Montgomery, Legislative Resolution Number 4006, commending Reverend Clinton M. Miller upon the occasion of his Fifth Pastoral Anniversary at Brown Memorial Baptist Church, to be celebrated on March 19, 2006.

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. There's also a special resolution by Senator LaValle. I'd ask that the title be read and ask for its movement.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator LaValle, Legislative Resolution Number 4007, commending Annette Perry upon the occasion of her designation for special recognition by the Town of Brookhaven Office of Women's Services, in celebration of National Women's History Month 2006.

THE PRESIDENT: All in favor of the resolution please signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Morahan.

SENATOR MORAHAN: Yes. May we have the noncontroversial reading of the calendar, please.

THE PRESIDENT: The Secretary will read.

Senator Morahan, there is one substitution.

SENATOR MORAHAN: Would you please make the substitution, Madam President.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: On page 16, Senator Farley moves to discharge, from the Committee on Finance, Assembly Bill Number 9046 and substitute it for the identical Senate Bill Number 5943, Third Reading Calendar 242.

THE PRESIDENT: Substitution ordered.

The Secretary will begin to read the noncontroversial calendar.

THE SECRETARY: Calendar Number 122, by Senator Golden, Senate Print 3828C, an act to amend the Executive Law, in relation to identification.

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, 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

235, by Senator Farley, Senate Print 6506, an act to amend the Public Health Law and Chapter 337 of the Laws of 2002.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Senator Farley, to explain your vote.

SENATOR FARLEY: Thank you, Madam President. I just want to explain my vote quickly on this.

This is an example of retired doctors that are having a volunteer program for healthcare in the city of Schenectady. It was a pilot program. It's been the only one in the state. It's been incredibly successful. There's a number of cities and areas that are anxious to imitate this and go forward with this.

It's a wonderful program that allows retired physicians to treat the poor and underserved on a volunteer basis. It's been an excellent program, and this makes it permanent.

And I would urge all of you to look into this program maybe for your areas, because it's an outstanding program. It's one that's been very, very successful.

Thank you, Madam President. I vote aye.

THE PRESIDENT: You will be so recorded as voting in the affirmative.

Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Senator Duane, to explain your vote.

SENATOR DUANE: Thank you, Madam President. I rise to speak in support of this legislation.

In 2002, I voted in favor of creating this program, the healthcare practitioner program in Schenectady County. The legislative findings accompanying the bill that initially created this program, which became Chapter 337 of the Laws of 2002 upon its approval by the Governor, noted the need for free, basic primary healthcare service for uninsured low-income individuals. I support this bill because the need for such services

continues today.

However, what also continues is New York State's need for a mental health parity law. This proposal, known as Timothy's Law, was named for Timothy O'Clair, a young boy from Schenectady who took his own life at the age of 12 after his family's insurance coverage for mental health treatment ran out.

Tragically, Timothy O'Clair took his own short life five years ago yesterday. And so I ask my colleagues to join with me in a moment of silence in memory of Timothy O'Clair.

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

SENATOR DUANE: My colleagues, I hope that this will be the year that this house enacts legislation to prevent insurance companies from limiting coverage for mental illness and substance abuse recovery. By doing so, we will be doing all we can as legislators to avoid another tragedy like the one that the O'Clair family is suffering through.

I vote yes.

Thank you, Madam President.

THE PRESIDENT: You will be recorded as voting in the affirmative, Senator.

The Secretary will announce the results.

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 242, substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 9046, an act to amend the Executive Law, in relation to evacuation drills.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date as Chapter 207 of the Laws of 2005.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number

363, by Senator Maziarz, Senate Print 6769, an act to amend the Labor Law, in relation to contracts.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 410, by Senator Nozzolio, Senate Print 1975, an act to amend the Real Property Tax Law, in relation to exempting.

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, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 434, by Senator Trunzo, Senate Print 143, an act to amend the Real Property Law, in relation to the failure.

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, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 436, by Senator Larkin, Senate Print 448, an act to amend the Surrogate's Court Procedure Act, in relation to expanding.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the first of January next succeeding.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 438, by Senator DeFrancisco, Senate Print 2148A, an act to amend the General Obligations Law, in relation to statutory short form power.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 454, by Senator Libous, Senate Print 2500, an act to amend the Penal Law, in relation to provision.

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, 44.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 457, by Senator Saland, Senate Print 3168, an act to amend the Penal Law, in relation to harassment of teachers.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

THE PRESIDENT: The bill is passed.

Senator Morahan, that completes the reading of the calendar.

SENATOR MORAHAN: Thank you, Madam President.

Is there any further business at the desk?

THE PRESIDENT: No, there is not, Senator.

SENATOR MORAHAN: Madam President, would you please recognize Senator Breslin.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Yes, Madam President. I believe there's a motion at the desk. I ask that it be read.

THE PRESIDENT: Yes, there is.

The Secretary will read.

THE SECRETARY: Senate Print 1376, by Senator Breslin, an act to create a healthcare financing commission.

THE PRESIDENT: Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

The motion would create a healthcare commission. And I think it's coincidental that I just came from the conference committee on health, where they talked about difficulties, difficulties in care for the indigent in hospitals, which has an 850 million annual price tag. They talked about long-term care, the interactions between

long-term care and home health care. They talked about a myriad of issues -- transportation for our elderly, services for the handicapped, traumatic brain injuries.

But what that does, it highlights the need to set up a commission to study healthcare overall. And that commission would be made up of 15 people, three to be appointed by the Governor, three by each house, two by each of the minorities. It would be made up of labor leaders, it would be made up of healthcare professionals.

And we would finally get some idea, as opposed to the piecemeal -- we have committees in the Senate, majority and minority, committees in the Assembly, all trying to take on the tremendous burdens of coming up with a comprehensive healthcare. But what we haven't done is set up someone on the outside, someone unaffected by the tremendous pressures of government and politics, someone who could independently, independently come up with some ideas to give us comprehensive healthcare throughout this state.

It hasn't been done before. It's necessary. How can we -- these billions and billions of dollars we spend each year, at a time when there's still 3 million of us without any healthcare at all. And that's aside from our Medicaid population.

So it is hoped that with this commission -- this does not have a financial expense. It's bringing the minds of professional people together to come up with recommendations, how we can implement and once again retain and regain our foothold as the leading state in the country.

So I urge all of my fellow Senators, both on the right side of the aisle and on the left side of the aisle -- which is the right side of the aisle -- to come together to vote for this.

Thank you very much, Madam President.

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, Coppola, Diaz, Dilan, Duane, Gonzalez, Klein, L. Krueger, Parker, Paterson, Sabini, Savino, Schneiderman, A. Smith, M. Smith, Stachowski, Stavisky, and Valesky.

THE PRESIDENT: The petition is not agreed to.

Senator Morahan.

SENATOR MORAHAN: Yes, Madam President. There being no further business, I move we adjourn until Monday, March 20th, at 3:00 p.m., intervening days being legislative days.

THE PRESIDENT: On motion, the Senate now stands adjourned until Monday, March 20th, 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:27 a.m., the Senate adjourned.)