NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 28, 2008

3:08 p.m.

REGULAR SESSION

LT. GOVERNOR DAVID A. PATERSON, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I would ask all assembled to please rise and join me in reciting our Pledge of Allegiance.

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

THE PRESIDENT: In the absence of clergy, we will observe a moment of silence.

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

THE PRESIDENT: The reading of the Journal.

THE SECRETARY: In Senate, Saturday, January 26, the Senate met pursuant to adjournment. The Journal of Friday, January 25, 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.

The Secretary will read.

THE SECRETARY: Senator Maziarz, from the Committee on Labor, reports the following bill direct to third reading:

Senate Print 6798, by Senator Maziarz, an act to amend the Workers' Compensation Law and others.

THE PRESIDENT: Without objection, the bill is reported directly to third reading.

We will proceed with the order of business.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Griffo.

SENATOR GRIFFO: Mr. President, on page 12 I offer the following amendments to Calendar Number 45, Senate Bill 6418, and I ask that the bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments are received and adopted, and the bill will

retain its place on the Third Reading Calendar.

Senator Griffo.

SENATOR GRIFFO: Mr. President, on behalf of Senator Maltese, on page 15 I offer the following amendments to Calendar Number 73, Senate Bill 6689, and ask that that bill retain its place on Third Reading Calendar.

THE PRESIDENT: The bill will retain its place on the Third Reading Calendar. The amendments are, without objection, received.

Thank you, Senator Griffo.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Resolution 4099, by Senator DeFrancisco, have it read in its entirety, and move for its adoption.

THE PRESIDENT: Hike. We will take up the motion.

The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution Number 4099, congratulating the Bishop Ludden Varsity

Football Team and Coach John Cosgrove upon the occasion of capturing the New York State 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, It is the sense of this Legislative Body to recognize and pay tribute to those young people within the State of New York who, achieving outstanding success in athletic competition, have inspired and brought pride to their school; and

"WHEREAS, This Legislative Body is justly proud to congratulate the Bishop Ludden Varsity Football Team and Head Coach John

Cosgrove upon the occasion of capturing the 2007 Class C Championship; and

"WHEREAS, The Bishop Ludden Varsity Football Team enjoyed a truly outstanding season, compiling an overall record of 12-1, ending the season on a 12-game winning streak and finishing with the most victories in the history of the school; and

"WHEREAS, The road to the state title was not easy, but this team was able to pull out many impressive victories throughout the year to lead them toward the sectionals and eventually the state playoffs; and

"WHEREAS, To earn the right to play in state competition, Bishop Ludden first had to prove that their season-long success would carry them through sectional competition. On November 3, 2007, Bishop Ludden took the Section III title by defeating previously undefeated Mt. Markham with a hard-fought come-from-behind victory in a game in which the Bishop Ludden Gaelic Knights overcame a 20-point deficit to win their first sectional crown since 2000; and

"WHEREAS, Having secured a Title

III title, it was on the state quarterfinals where Bishop Ludden was matched against another previously undefeated team, the Unatego Spartans, from Section IV, and again they needed to come from behind to earn a 30-21 victory at Binghamton's Alumni Stadium; and

"WHEREAS, It was then on to the state semifinal game at Paetec Park in Rochester against yet another undefeated team in Section V powerhouse LeRoy, in a game that turned out to be an overtime thriller with the Gaelic Knights securing a victory, 34-33, with a blocked extra point at the end of overtime; and

"WHEREAS, The Class C state championship game was played at the Carrier Dome on November 25, 2007, against defending state champion and unbeaten Dobbs Ferry, a team riding an amazing 23-game winning streak. Bishop Ludden, for the first time in five games, scored first with an 80-yard pass play from senior quarterback Connor Sweeney to wide receiver Wendell Williams on the first play from scrimmage 11 seconds into the game. They

never trailed in the game and hung on for a 21-16 win, claiming their first ever state championship; and

"WHEREAS, No team, no matter how gifted, can succeed without outstanding talent throughout its entire roster. Such was the case for the 2007 Bishop Ludden Varsity Football Team, whose players include seniors Daquan Grobsmith, Wendell Williams, Connor Sweeney, James Braithwaite, Connor Brown, Ben Searle, Casey Christo, Jerry Fenstor, Chris Harding, Joe Rathbun, Patrick Rosanio, Eugene Law, Bill McGrath, Julio Ortiz and Jiyhouh Ly; juniors Steve Barrett and Nate Stewart; and sophomores Omar Osbourne, John Rooney, Mark DeAngelis, Devin White, E.J. Beauford, Joevon Works, Chris Davis, Nick Ferrante, Conor Cosgrove, Mike Hogan and Jake Szelewski; along with coaches John Cosgrove, Mike Rogers, Bill Cloonan, Frank Rosanio, Jim Rooney, Scott Eustace, and Nate Balcom; and

"WHEREAS, While football is a team sport, special recognition from the title game should be noted. Connor Sweeney was named Most Valuable Player, Nate Stewart was named

Most Valuable Offensive Lineman, Daquan Grobsmith was named Most Valuable Offensive Back, and Patrick Rosanio was given the Sportsmanship Award; and

"WHEREAS, In addition to the excellent play, hard work and teamwork of its players, and the talent and dedication of Coach John Cosgrove and his staff, the Bishop Ludden Gaelic Knights enjoyed another huge advantage with a very supportive and enthusiastic fan base of parents, cheerleaders and area residents, particularly in the title game, where they were adorned with t-shirts in support of their team; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the Bishop Ludden Varsity Football Team on their successful season and overall team record, and upon the capture of the 2007 Class C Football Championship; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the members of the 2007 Bishop Ludden Varsity Football Team and Coach John

Cosgrove."

THE PRESIDENT: On the resolution, Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Mr. President.

I'm very, very proud to rise to congratulate the Bishop Ludden football team for their championship season this year.

You know, what wasn't really read but I think is as important as winning the championship are a couple of factors that show the spirit and the strength of this team and what team sport really means.

They lost their first game of the year, and they came back winning the next twelve, including the championship games. To me, that says a lot about the character of a team.

The sectional championship, they were down by 20 points -- 20 points -- and they ended up winning that game. Once again, that shows a lot about character.

Their next game ended up with playing an undefeated team. They came from behind again and won 30 to 21. I mean, that's

what character is all about.

And the final game, listen to this. The Section V powerhouse LeRoy -- I don't know if the senator from LeRoy is here, but I'll make sure the Senator knows that his team lost. It turned out to go into overtime, and they won 34 to 33, by blocking an extra point. Now, that shows a real class operation.

And team sports is what this is all about. You're going to remember this forever. It's a great, great experience. These are going to be your closest friends forever.

And knowing that this is a team sport, several people were recognized as being the outstanding person in the category mentioned when the resolution was read. I'm going to take 20 seconds to read the rest of the names, who are just as important: Wendell Williams, James Braithwaite, Connor Brown, Ben Searle, Casey Christo, Jerry Fenstor, Chris Harding, Joe Rathbun, Eugene Law, Bill McGrath, Julio Ortiz, Jiyhouh Ly, Steve Barrett, Omar Osbourne, John Rooney, Mark DeAngelis, Devin White, E.J. Beauford, Joevon Works, Chris Davis, Nick Ferrante -- that name

is familiar; I'd like to talk to you about that -- Conor Cosgrove, Mike Hogan, Jake Szelewski.

And the other coaches: Mike Rogers, Bill Cloonan, Frank Rosanio, Jim Rooney, Scott Eustace, and Nate Balcom.

A real team, a real group of people that came together to do something that no one has ever done at your school -- and who knows, no one may ever do it again.

So congratulations. That's what life is about, working with others, teamwork for a common goal. And you're all going to be great successes in your lives in many, many different areas. So congratulations, and I'm very happy we could invite you here to Albany to be honored by this very important body, the New York State Senate.

THE PRESIDENT: On the resolution, Senator Valesky.

SENATOR VALESKY: Thank you, Mr. President.

Thank you, Senator DeFrancisco, for arranging for this resolution to be presented today and certainly for arranging for the

transportation of our young men, our champions from Bishop Ludden, to be here today.

You certainly make the City of Syracuse proud, the County of Onondaga proud, all of Central New York proud, and I would say the entire great State of New York proud of your efforts. And we appreciate all that you have done.

One thing I would just add. Senator DeFrancisco points out that you lost your first game and came back and won 12 in a row. You were down by 20 points in the sectional game. You continued to defy the odds. And that gives us in this chamber who will be rooting this Sunday for the New York Giants great hope that the same thing can happen.

So congratulations, and thank you.

THE PRESIDENT: The question is on the resolution offered by Senator DeFrancisco commending the efforts of the Bishop Ludden Varsity Football Team of Syracuse. All in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution has carried.

To Coach John Cosgrove and all the players and coaches of Bishop Ludden Varsity School, first of all, pursuant to Senator DeFrancisco's request, I will personally make sure that Senator Maziarz understands that his team lost to all of you.

And secondly, to further the remarks of Senator Valesky, we hope that this is a prelude to another victory of a New York team this week.

But your victory, the first of its kind, the first time that Bishop Ludden has ever won the Class C Championship, now making you the state champions, we are very proud of you here in the Senate, hope that you'll come back to visit again, and extend to all of you our heartiest congratulations for a victory well fought.

Thank you very much.

(Applause.)

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Mr. President, I

believe there are substitutions at the desk, if we could make them at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 12, Senator Lanza moves to discharge, from the Committee on Codes, Assembly Bill Number 9340A and substitute it for the identical Senate Bill Number 6408A, Third Reading Calendar 43.

On page 13, Senator Maziarz moves to discharge, from the Committee on Labor, Assembly Bill Number 9473 and substitute it for the identical Senate Bill Number 6500, Third Reading Calendar 56.

And on page 15, Senator Farley moves to discharge, from the Committee on Banks, Assembly Bill Number 9551A and substitute it for the identical Senate Bill Number 6622A, Third Reading Calendar 79.

THE PRESIDENT: The substitution is ordered.

Senator Skelos.

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

THE PRESIDENT: Thank you, Senator.

The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 28, by Senator Padavan, Senate Print 68, an act to amend the Penal Law, in relation to establishing.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 29, by Senator Larkin, Senate Print 201, an act to amend the Civil Practice Law and Rules, in relation to authorizing.

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, 58.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 31, by Senator Trunzo, Senate Print 754, an act to amend the Penal Law, in relation to the unlawful sale of tobacco products to a child.

THE PRESIDENT: The Secretary will 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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 33, by Senator Volker, Senate Print 1263B, an act to amend the Penal Law, in relation to the unlawful operation of a recording device.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 34, by Senator DeFrancisco, Senate Print 1824, an act to amend the Criminal Procedure Law, in relation to statements at sentencing.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 36, by Senator Volker, Senate Print 2369, an act to amend the Criminal Procedure Law, in relation to expanding.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 39, by Senator Volker, Senate Print 4035, an act to amend the Penal Law, in relation to trespassing in a motor vehicle.

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: Those recorded in the negative on Calendar Number 39 are Senators Duane, Gonzalez, Hassell-Thompson, Montgomery, Parker and Perkins.

Ayes, 53. Nays, 6.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 43, substituted earlier today by Member of the Assembly Aubry, Assembly Print Number 9340A, an act to amend the Criminal Procedure Law.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 46, by Senator Maltese, Senate Print 6488B, an act to amend the Public Health Law, in relation to establishing a task force.

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, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 55, by Senator Leibell, Senate Print 6493, an act to amend the Labor Law, in relation to requiring.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Chapter 629 of the Laws of 2007.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE PRESIDENT: Results.

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 56 --

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

THE PRESIDENT: The bill will be laid aside for the day.

THE SECRETARY: Calendar Number 65, by Senator Golden, Senate Print 6492, an act to amend the Civil Service Law, in relation to permitting.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Chapter 545 of the Laws of 2007.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 66, by Senator Padavan, Senate Print 6494, an act to amend the Civil Service Law, in relation to dispute resolution.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Chapter 190 of the Laws of 2007.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 79, substituted earlier today by Member of the Assembly Towns, Assembly Print Number 9551A, an act to amend Chapter 591 of the Laws of 2001.

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, 59.

THE PRESIDENT: The bill is passed.

This completes the noncontroversial reading of the calendar, Senator Skelos. What is your pleasure?

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

THE PRESIDENT: There is none,

sir.

SENATOR SKELOS: There being none, I move we stand adjourned until Tuesday, January 29th, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Tuesday, January 29th, at 11:00 a.m.

(Whereupon, at 3:27 p.m., the Senate adjourned.)