NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

February 4, 2008

3:06 p.m.

REGULAR SESSION

SENATOR JOSEPH GRIFFO, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT GRIFFO: The Senate will come to order.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

ACTING PRESIDENT GRIFFO: In the absence of clergy, I would ask that we bow our heads for a moment of silent prayer.

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

ACTING PRESIDENT GRIFFO: Reading of the Journal.

THE SECRETARY: In Senate, Friday, February 1, the Senate met pursuant to adjournment. The Journal of Thursday, January 31, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT GRIFFO: 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 Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Saland, on page 14 I offer the following amendments to Calendar Number 32, Senate Print 1073, and I ask that that bill retain its place on the Third Reading Calendar.

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

Senator Farley.

SENATOR FARLEY: Mr. President, I now move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause. That's Senator Lanza's bill, Print Number 5941.

ACTING PRESIDENT GRIFFO: So ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's a substitution at the desk, if we could make it at this time.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: On page 19, Senator Marcellino moves to discharge, from the Committee on Environmental Conservation, Assembly Bill Number 9462 and substitute it for the identical Senate Bill Number 6503, Third Reading Calendar 101.

ACTING PRESIDENT GRIFFO: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, there is a resolution at the desk by Senator Nozzolio, 4170. If we could have it read in its entirety at this time.

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution Number 4170,

congratulating the Red Creek High School Boys Soccer Team and Coach Donald J. Hartley upon the occasion of capturing the 2007 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, The Red Creek High School Boys Soccer Team defeated Marathon High School, 3-1, to capture the 2007 New York State Class C Championship and its second title in three years; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Head Coach Donald J. Hartley

and Assistant Coach David Gregg, 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 Red Creek High School Boys Soccer 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, Head Coach Donald J. Hartley and Assistant Coach David Gregg have 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 Head Coach Donald J. Hartley and the outstanding athletes of the

Red Creek High School Boys Soccer 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 Red Creek High School Boys Soccer Team, its members -- Colton Gregg, Nathaniel Gregg, Devin Reese, Juan Torres, Ryan Fisher, Alex Keeling, Jordan Lang, Anthony Roden, Eric Stevens, Reis Cunningham, Steve Deferio, Drew Knox, Anthony Losurdo, Ryan Pudlowski, Keyan Cutt, Cody Sherman, Ryon Adam, Ryan Gould, Matt Treby, Eli Vitale and Dan Burnett -- Assistant Coach David Gregg, and Head Coach Donald J. Hartley on their outstanding season and overall team record; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the Red Creek High School Boys Soccer Team, Assistant Coach David Gregg, and Head Coach Donald J. Hartley."

ACTING PRESIDENT GRIFFO: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, thank you. On the resolution.

Mr. President and my colleagues, as today we are in the euphoria of New York State's Super Bowl championship -- with a coach from the center part of the Finger Lakes region, Coach Coughlin, Tom Coughlin, who's from the community of Waterloo, New York -- and we're all celebrating that wonderful Super Bowl victory, it's appropriate that we look at our own state champions and the Red Creek Boys Soccer champions, as they are the 2007 Class C champions, are being recognized for their outstanding success.

They're seated in the gallery, the team, along with David Sholes, who is superintendent of Red Creek High School; Noel Patterson, the high school principal; Matt VanOrman, the athletic director; school board members Jeanette Treby and Larry Curtis; and team manager Brian March.

This team has been an outstanding group of young men. But I'd be remiss if I hadn't singled out the tremendous accomplishments of their coach, Don Hartley.

Don has mentored now three generations of players, outstanding contributors to the region. And Coach Hartley, as the mentor of literally thousands of players, hundreds of All Stars, mentoring countless numbers of players into the collegiate ranks, championships are something that he doesn't take casually.

But the fact of the matter is there have been so many -- the fifth state championship for the Red Creek Boys Soccer Team, the second state championship in the last three years. That he has won countless Section V titles.

That most importantly, though, Coach Hartley is a teacher and a mentor of young men. He molds young boys into manhood, and that that is something that we as a state owe this fine coach and fine mentor, fine teacher, a very, very deep debt of gratitude.

For that I wish to also thank Coach David Gregg, his assistant, in their tutoring these fine young athletes.

I should also add that the championship game, played in Senator Seward's

district, at the Oneonta National Soccer Hall of Fame, that great resource that we have in recognizing the wonderful sport of soccer, that the Red Creek team in the championship game beat a high school from Senator Seward's district, Marathon, 3 to 1.

Ironically, Senator Seward's sister lives in the Red Creek School District and has actually served on the school board there.

So, Senator Seward, I appreciate the opportunity to rub this in to you as both a colleague, a friend -- and particularly, having your sister on our side makes it all the more pleasurable.

That I appreciate the opportunity and my colleagues' attention on this issue. We need to recognize the excellence of young people and also those who contribute to the fabric of life of the communities in our great state.

The Red Creek Boys Soccer Team and their program, under Coach Hartley, is legendary, and for that I congratulate them. And I congratulate them and thank them for their wonderful contributions to the State of

New York.

Thank you, Mr. President.

ACTING PRESIDENT GRIFFO: Thank you, Senator Nozzolio.

Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

I rise not to ask for equal time, Senator Nozzolio, but I rise to, in the interests of good sportsmanship, to also congratulate the Red Creek Boys Soccer Team on their outstanding achievement of being New York State champions once again this year.

I'm very proud in my district to be the home of the National Soccer Hall of Fame in Oneonta, where we have seen the Boys State Championship games played in recent years. It's a wonderful facility, and I hope you all enjoyed your visit to Oneonta. We appreciate the local business there while you were in town.

And also, as the Senator representing Marathon Central School, I on their behalf, and in the interests of good sportsmanship, also offer my congratulations.

It is true, as Senator Nozzolio pointed out, my sister Marjorie Hill lives on Younglove Road in the Red Creek School District. In fact, all four of her children -- Ricky and Randy Hill went through the boys soccer program at Red Creek, and her two daughters, Becky and Jennifer Hill, also did through the ladies teams, and they also were very good soccer players.

So I rise delighted to offer my congratulations. And on behalf of the National Soccer Hall of Fame and the Marathon Central School, congratulations on your accomplishment, a job well done.

ACTING PRESIDENT GRIFFO: Thank you, Senator Seward.

And on this great day to celebrate New York sports, as we savor the exceptional victory of the New York Giants being crowned Super Bowl champions, we extend our congratulations and well wishes to the young athletes at Red Creek as well as the coaching staff and the administration. Congratulations, and best wishes.

The question is on the resolution.

All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT GRIFFO: Opposed, nay.

(No response.)

ACTING PRESIDENT GRIFFO: The resolution is adopted.

(Applause.)

ACTING PRESIDENT GRIFFO: Senator Skelos.

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

ACTING PRESIDENT GRIFFO: The Secretary will read.

THE SECRETARY: Calendar Number 38, by Senator DeFrancisco, Senate Print 2420, an act to amend the Penal Law, in relation to the amount of restitution.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 45, by the Senate Committee on Rules, Senate Print 6418A, an act to amend the Public Health Law, in relation to state identification.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 74, by Senator Morahan, Senate Print 6703, an act to amend the Retirement and Social Security Law, in relation to certain medical presumptions.

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 75, by Senator Golden, Senate Print 6717, an act to amend the Civil Service Law, in relation to negotiability.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 89, by Senator Flanagan, Senate Print 841A, an

act to amend the Mental Hygiene Law, in relation to disclosure.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 180th day.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 97, by Senator Marcellino, Senate Print 1559, an act to amend the Environmental Conservation Law, in relation to management of wildlife resources.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first of January next succeeding.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52. Nays, 1. Senator Serrano recorded in the negative.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 98, by Senator Farley, Senate Print 2743, an act to amend the Environmental Conservation Law, in relation to making technical corrections.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect immediately.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 100, by Senator Maziarz, Senate Print 4324B, an act to amend the Environmental Conservation Law, in relation to enacting.

ACTING PRESIDENT GRIFFO: Read

the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT GRIFFO: Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Thank you, Mr. President. To explain my vote. I will be voting in the affirmative.

This is another step in the very long journey for the Great Lakes Compact, which I and many of my colleagues have championed in this body. I believe this is at least the second or third time that we are passing this.

Hopefully, this time the Assembly will get it right and pass the version that is accepted by eight states and two Canadian provinces, so that this compact, this most important compact, can get on to the federal government and have to ratified by the House of Representatives and the United States Senate.

This compact provides for such important issues as invasive species in the Great Lakes. Probably one of the most important ones is water diversion. My Senate district has Lake Erie, Lake Ontario very close by. And this compact is long overdue. It's been enacted in two states, Illinois and I believe Minnesota was the other one -- Minnesota and Illinois. New York will be the third state of eight to ratify this, and then the two Canadian provinces, and send it on to the federal government.

This is a very, very, very important step that we are taking today, once again, for the protection of our Great lakes. Thank you, Mr. President. I'll be voting in the affirmative.

ACTING PRESIDENT GRIFFO: Senator Maziarz to be recorded in the affirmative.

Senator Thompson.

SENATOR THOMPSON: Yes, Mr. President, I just wanted to say congratulations to my colleague from Niagara County.

Also, as he did state, this is a

very important piece of legislation. And I just wanted to say just a couple of things on the record.

The first is that this is some comments from a memorandum of support from the Nature Conservancy. And this is something that really impacts many people upstate.

And it says that the Great Lakes, particularly our part, they hold one-fifth of the world's supply of freshwater, which amounts to 95 percent of the surface freshwater in the nation. And that's extremely, extremely important.

New York's Great Lakes, Ontario and Erie, are the most downstream in the basin system. Pollution, diversion and withdrawal of water into other lakes therefore create impacts on New York's Great Lakes basin, a region that includes all of Western New York, the Finger Lakes, the St. Lawrence River Valley, and a third of the Adirondack Park. And future generations will be impacted by this.

One of the things that I was talking with some folks about last week, some

environmental advocates that came by, it's just last year there was discussion about the water shortage in Atlanta. And people -- who would have ever thought that a place like Atlanta would actually have a water shortage.

But believe it or not, it is projected and it's speculated that in years to come there will be a fierce debate about access to fresh water in many parts of the country. And this is something that I think that we need to be mindful of and hopefully this legislation will help with that issue in the years to come.

But future generations will be impacted. And last year, it was in Atlanta and it will be in other places across the country as water levels decrease and as people struggle to have access to clean and fresh supplies of water.

Thank you.

ACTING PRESIDENT GRIFFO: Senator Thompson, how do you vote?

SENATOR THOMPSON: I vote in strong support of this good piece of legislation by the giant from Niagara County,

Senator Maziarz.

ACTING PRESIDENT GRIFFO: Senator Thompson to be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 101, substituted earlier today by Member of the Assembly Sweeney, Assembly Print Number 9462, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the same date and in the same manner as Chapter 674 of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 114, by Senator Maltese, Senate Print 6404, an act to amend the Transportation Law, in relation to membership.

ACTING PRESIDENT GRIFFO: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date and in the same manner as Chapter 209 of the Laws of 2007.

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 115, by Senator Maziarz, Senate Print 254A, an act to amend the Retirement and Social Security Law, in relation to providing.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 118, by Senator Robach, Senate Print 1595, an act to amend the Civil Service Law, in relation to reports.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

THE SECRETARY: Calendar Number 119, by Senator Robach, Senate Print 2983, an act to amend the Retirement and Social Security Law, in relation to providing.

ACTING PRESIDENT GRIFFO: Read the last section.

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

ACTING PRESIDENT GRIFFO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT GRIFFO: The bill is passed.

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

SENATOR SKELOS: Thank you, Mr. President.

I guess everybody is sort of happy today because of the Giants' great victory. So is there any further business to come before the Senate?

ACTING PRESIDENT GRIFFO: There is no further business to come before the desk.

SENATOR SKELOS: Then, Mr. President, I move that the Senate stand adjourned until Tuesday, February 5th, at 3:00 p.m.

ACTING PRESIDENT GRIFFO: On motion, the Senate stands adjourned until

Tuesday, February 5th, at 3:00 p.m.

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