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NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

March 16, 2005

11:37 a.m.

REGULAR SESSION

SENATOR ELIZABETH O'C. LITTLE, Acting President

STEVEN M. BOGGESS, Secretary

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P R O C E E D I N G S

ACTING PRESIDENT LITTLE: 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 LITTLE: In the
absence of clergy, I would ask everyone to bow
our heads in a moment of silence.

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

ACTING PRESIDENT LITTLE: Reading
of the Journal.

THE SECRETARY: In Senate,
Tuesday, March 15, the Senate met pursuant to
adjournment. The Journal of Monday, March 14,
was read and approved. On motion, Senate
adjourned.

ACTING PRESIDENT LITTLE: Without
objection, the Journal stands approved as
read.

Presentation of petitions.

Messages from the Assembly.

1 Messages from the Governor.
2 Reports of standing committees.
3 Reports of select committees.
4 Communications and reports from
5 state officers.

6 Motions and resolutions.

7 Senator Skelos.

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

11 ACTING PRESIDENT LITTLE: The
12 Secretary will read.

13 THE SECRETARY: On page 4,
14 Senator Fuschillo moves to discharge, from the
15 Committee on Consumer Protection, Assembly
16 Bill Number 1551 and substitute it for the
17 identical Senate Bill Number 3018, First
18 Report Calendar 290.

19 ACTING PRESIDENT LITTLE: The
20 substitution is ordered.

21 Senator LaValle.

22 SENATOR LaVALLE: Madam
23 President, I move to commit Senate Print
24 Number 713, Calendar Number 293 on the order
25 of First Report, to the Committee on Finance.

1 ACTING PRESIDENT LITTLE: So
2 ordered.

3 Senator Skelos.

4 SENATOR SKELOS: Madam President,
5 there's a Resolution Number 848 at the desk,
6 by Senator Bruno, concerning Good Joes like
7 Joe Robach. Could we have the title read,
8 move for its immediate adoption, and then if
9 we could put every member on the resolution.

10 And if anybody wishes not to
11 sponsor it, they should indicate to the desk.

12 ACTING PRESIDENT LITTLE: Thank
13 you. The Secretary will read.

14 THE SECRETARY: By Senator Bruno,
15 Legislative Resolution Number 848,
16 commemorating Good Joes Day, 2005.

17 ACTING PRESIDENT LITTLE: The
18 question is on the resolution. All in favor
19 signify by saying aye.

20 (Response of "Aye.")

21 ACTING PRESIDENT LITTLE:
22 Opposed, nay.

23 (No response.)

24 ACTING PRESIDENT LITTLE: The
25 resolution is adopted.

1 Senator Skelos.

2 SENATOR SKELOS: Madam President,
3 if we can go to the noncontroversial reading
4 of the calendar.

5 ACTING PRESIDENT LITTLE: The
6 Secretary will read.

7 THE SECRETARY: Calendar Number
8 175, by Senator Johnson, Senate Print 281, an
9 act to amend the Vehicle and Traffic Law, in
10 relation to prohibiting.

11 ACTING PRESIDENT LITTLE: Read
12 the last section.

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

16 ACTING PRESIDENT LITTLE: Call
17 the roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes, 48.

20 ACTING PRESIDENT LITTLE: The
21 bill is passed.

22 THE SECRETARY: Calendar Number
23 176, by Senator Marcellino, Senate Print 741,
24 an act to amend the Vehicle and Traffic Law,
25 in relation to increasing penalties.

1 ACTING PRESIDENT LITTLE: Read
2 the last section.

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

5 ACTING PRESIDENT LITTLE: Call
6 the roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes, 48.

9 ACTING PRESIDENT LITTLE: The
10 bill is passed.

11 THE SECRETARY: Calendar Number
12 183, by Senator Maziarz, Senate Print 2569, an
13 act to amend the Labor Law, in relation to the
14 appointments to the Public Work Advisory
15 Board.

16 SENATOR LIZ KRUEGER: Lay it
17 aside.

18 ACTING PRESIDENT LITTLE: The
19 bill is laid aside.

20 THE SECRETARY: Calendar Number
21 190, by Senator Saland, Senate Print --

22 SENATOR HASSELL-THOMPSON: Lay it
23 aside.

24 ACTING PRESIDENT LITTLE: The
25 bill is laid aside.

1 THE SECRETARY: Calendar Number
2 193, by Senator LaValle, Senate Print 840, an
3 act to amend the Education Law, in relation to
4 the disclosure of gifts.

5 ACTING PRESIDENT LITTLE: Read
6 the last section.

7 THE SECRETARY: Section 2. This
8 act shall take effect on the first of August.

9 ACTING PRESIDENT LITTLE: Call
10 the roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes, 48.

13 ACTING PRESIDENT LITTLE: The
14 bill is passed.

15 THE SECRETARY: Calendar Number
16 195, by Senator Marchi, Senate Print 2154, an
17 act to amend the Education Law, in relation to
18 peace officer status.

19 ACTING PRESIDENT LITTLE: Read
20 the last section.

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

23 ACTING PRESIDENT LITTLE: Call
24 the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes, 51.

2 ACTING PRESIDENT LITTLE: The
3 bill is passed.

4 THE SECRETARY: Calendar Number
5 264, by Senator Skelos, Senate Print 3005, an
6 act to amend the Real Property Tax Law, in
7 relation to adjusted base proportions.

8 ACTING PRESIDENT LITTLE: Read
9 the last section.

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

12 ACTING PRESIDENT LITTLE: Call
13 the roll.

14 (The Secretary called the roll.)

15 THE SECRETARY: Ayes, 51.

16 ACTING PRESIDENT LITTLE: The
17 bill is passed.

18 THE SECRETARY: Calendar Number
19 265, by Senator Skelos, Senate Print 3006, an
20 act to amend the Real Property Tax Law, in
21 relation to allowing.

22 ACTING PRESIDENT LITTLE: Read
23 the last section.

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

1 ACTING PRESIDENT LITTLE: Call
2 the roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes, 53.

5 ACTING PRESIDENT LITTLE: The
6 bill is passed.

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

9 SENATOR SKELOS: Madam President,
10 if we could go to the controversial reading of
11 the calendar.

12 And before we do that, if you would
13 ring the bell, let the members know that we
14 are about to embark upon the controversial
15 reading of the calendar.

16 ACTING PRESIDENT LITTLE: The
17 Secretary will ring the bell.

18 Senator Skelos.

19 SENATOR SKELOS: Madam President,
20 we're trying to complete the controversial
21 calendar before the joint conference
22 committees commence. So if the members could
23 get here.

24 And if we could now go to the
25 controversial reading of the calendar.

1 ACTING PRESIDENT LITTLE: The
2 Secretary will read.

3 THE SECRETARY: Calendar Number
4 183, by Senator Maziarz, Senate Print 2569, an
5 act to amend the Labor Law.

6 SENATOR SKELOS: Lay it aside for
7 the day.

8 ACTING PRESIDENT LITTLE: The
9 bill is laid aside for the day.

10 THE SECRETARY: Calendar Number
11 190, by Senator Saland, Senate Print 317, an
12 act to amend the Education Law.

13 ACTING PRESIDENT LITTLE: Senator
14 Hassell-Thompson.

15 SENATOR HASSELL-THOMPSON: Yes,
16 Madam President. I just -- very quickly, I
17 realize that the history of this says that we
18 passed this bill last year, Senator Saland.
19 And I was curious as to whether or not --

20 ACTING PRESIDENT LITTLE:
21 Senator, are you asking Senator Saland to
22 yield for a question?

23 SENATOR HASSELL-THOMPSON: Yes, I
24 am. I was going to speak on the bill, but
25 yes, I do.

1 ACTING PRESIDENT LITTLE: Thank
2 you.

3 Senator Saland, will you yield?

4 SENATOR SALAND: Yes, Madam
5 President.

6 ACTING PRESIDENT LITTLE: Thank
7 you.

8 SENATOR HASSELL-THOMPSON: I
9 wondered if you did not think that the penalty
10 was a --

11 SENATOR SALAND: Madam President,
12 can I have a little bit of quiet behind me,
13 please.

14 ACTING PRESIDENT LITTLE: Thank
15 you. Can we have quiet in the chamber,
16 please.

17 SENATOR SALAND: Thank you.

18 SENATOR HASSELL-THOMPSON: Okay,
19 thank you. I was asking didn't you think that
20 the penalty was a little bit excessive.

21 SENATOR SALAND: Well, I was not
22 really concerned as much with the penalty as I
23 was with the threat to particularly the young
24 people who might purchase these contact lenses
25 from providers -- whether they be in flea

1 markets, whether they be in novelty shops,
2 wherever -- which threaten their vision.

3 Because by using these types of
4 contacts without a prescription -- they may be
5 a bit of a fad, they may be something that's
6 hot for the time, but the user runs the risk
7 not merely of infections but of ocular damage
8 and, in rare instances, perhaps even the loss
9 of vision.

10 The FDA has put out warnings on
11 this. And this is just an effort to try and
12 provide some meat to what is currently an FDA
13 warning.

14 And we've worked with Assemblyman
15 Canestrari's office, and we're hopeful --
16 we've moved this bill before. We thought they
17 were going to move it last year. We're
18 hopeful that they will move it this year.
19 They seem pretty optimistic about it.

20 SENATOR HASSELL-THOMPSON: Just
21 quickly on the bill.

22 ACTING PRESIDENT LITTLE: Senator
23 Hassell-Thompson, on the bill.

24 SENATOR HASSELL-THOMPSON: Thank
25 you.

1 I haven't been a teenager in a very
2 long time, Senator Saland. But I happen to
3 have been one of those people who likes the
4 decorative -- and I've worn green and gray and
5 all other kinds of colors, you know. And
6 there are many adults that do.

7 And I don't think that I was aware
8 that -- of the dangers. I mean, you pick
9 these up at the flea markets because they're
10 so much less expensive. If you buy them at
11 the ophthalmologist's shop, they can cost
12 anywhere up to \$200. But you get them in the
13 flea market for about \$40 or \$50.

14 So I do appreciate the concern and
15 your addressing this issue. And certainly
16 it's a consumer education issue that would
17 automatically concern me. I just wondered if
18 it was not excessive.

19 But I think that when we talk about
20 the possibility of creating blindness because
21 of carelessness and unawareness, then it
22 certainly gets your attention.

23 Thank you.

24 ACTING PRESIDENT LITTLE: Thank
25 you.

1 Any other Senator wishing to be
2 heard?

3 The debate is closed.

4 The Secretary will ring the bell.

5 SENATOR SKELOS: Madam President.

6 ACTING PRESIDENT LITTLE: Senator
7 Skelos.

8 SENATOR SKELOS: If we can
9 proceed, please.

10 ACTING PRESIDENT LITTLE: Would
11 the members please take their seats.

12 Read the last section.

13 THE SECRETARY: Section 7. This
14 act shall take effect on the 90th day.

15 ACTING PRESIDENT LITTLE: Call
16 the roll.

17 (The Secretary called the roll.)

18 ACTING PRESIDENT LITTLE: Senator
19 Nozzolio, to explain his vote.

20 SENATOR NOZZOLIO: Thank you,
21 Madam President.

22 I asked for a pause in the
23 proceedings for the opportunity to explain my
24 vote, as this is a measure introduced by
25 Senator Saland to protect all people from the

1 potentially serious, potentially dangerous
2 acquisition of contact lenses which could hurt
3 the most important gift we have, the gift of
4 sight.

5 I know Senator Saland's motivations
6 for this measure were in large part to protect
7 young people from buying contact lenses in
8 this fashion.

9 I'm very pleased, viewing the
10 proceedings today, our group of young people,
11 honor students from Auburn, from West Middle
12 School. And I want to welcome these students
13 here to the Senate chamber as they're viewing
14 the proceedings, seeing how our Senate
15 deliberates on issues important to all people.

16 These young people and their
17 chaperones traveled a long way to be here to
18 view the democracy that exhibits in these
19 halls each and every day. I'd like to
20 congratulate them for their interest, thank
21 the chaperones for their participation.

22 And, Madam President, I think it's
23 fitting that, again, they can see us
24 deliberate a measure that tries to protect the
25 health and safety of all New Yorkers.

1 I ask permission on this measure,
2 Madam President, to vote aye.

3 ACTING PRESIDENT LITTLE: Thank
4 you. Senator Nozzolio, in the affirmative.

5 Announce the results.

6 THE SECRETARY: Those Senators
7 absent from voting on Calendar Number 190 are
8 Senators Libous and Trunzo.

9 Ayes, 58. Nays, 0.

10 ACTING PRESIDENT LITTLE: The
11 bill is passed.

12 Senator Skelos.

13 SENATOR SKELOS: Madam President,
14 is there any further business at the desk?

15 ACTING PRESIDENT LITTLE: There
16 are petitions at the desk, Senator Skelos.
17 Petitions out of committee at the desk.

18 SENATOR SKELOS: Would you please
19 recognize Senator Duane.

20 ACTING PRESIDENT LITTLE: Senator
21 Duane.

22 SENATOR DUANE: Thank you, Madam
23 President.

24 I have a motion at the desk, and I
25 would like to have it called up at this time.

1 THE SECRETARY: Senate Bill
2 Number 306, by Senator Duane, an act to amend
3 the Insurance Law.

4 ACTING PRESIDENT LITTLE: Senator
5 Duane.

6 SENATOR DUANE: Thank you, Madam
7 President.

8 This bill is a mental health parity
9 which would provide parity for insurance
10 coverage of mental illness with those equal to
11 coverage that is offered for physical illness.

12 Right now New York State law
13 legally allows health insurance policies and
14 plans to discriminate in the coverage they
15 provide based upon the diagnosis of mental
16 illness. And frankly, it's time to end the
17 discrimination and for the Senate to pass
18 mental health parity.

19 Current law allows health insurance
20 policies and plans to deny coverage and limit
21 treatment based on the diagnosis of mental
22 illness. Mental illness is widespread and is
23 usually untreated. Treatment is proven to
24 work, it is cost-effective. And
25 unfortunately, now, American employers lose

1 over \$80 billion annually in lost productivity
2 due to untreated or undertreated mental
3 illnesses of their employees and their
4 families.

5 New Yorkers overwhelmingly want
6 mental illness to be treated like any other
7 illness. And in fact, 34 states already have
8 some form of mental health parity legislation.

9 Current law allows health insurance
10 policies and plans to deny coverage and limit
11 treatment based on the diagnosis of mental
12 illness. Terrible things have happened to
13 many families because there is no coverage
14 equal to physical illness for mental illness.

15 And in fact, the president's New
16 Freedom Commission on Mental Health,
17 "Achieving the Promise: Transforming Mental
18 Health Care in America," identified unfair
19 treatment limitations and financial
20 requirements placed on mental health benefits
21 in private health insurance as one of three
22 obstacles that prevent Americans from
23 receiving the health care and the mental
24 health care they deserve.

25 You know, already so many states

1 already have parity laws, and New York State
2 should join those laws. The most recent
3 pricing of what that would cost per employee
4 per month is about \$1.26. And certainly
5 that's something that is far worth the
6 investment if we can make it so that
7 New Yorkers live healthier, happier and more
8 productive lives.

9 So I encourage my colleagues to
10 vote yes on this motion.

11 Thank you, Madam President.

12 ACTING PRESIDENT LITTLE: Thank
13 you, Senator.

14 All those Senators in favor of the
15 petition out of committee please signify by
16 raising your hand.

17 THE SECRETARY: Those recorded in
18 agreement are Senators Andrews, Breslin,
19 Brown, Diaz, Dilan, Duane, Gonzalez,
20 Hassell-Thompson, Klein, L. Krueger,
21 C. Kruger, Montgomery, Onorato, Oppenheimer,
22 Parker, Paterson, Sabini, Sampson, Savino,
23 Schneiderman, Serrano, A. Smith, M. Smith,
24 Stachowski, Stavisky and Valesky.

25 ACTING PRESIDENT LITTLE: The

1 petition is not agreed to.

2 Senator Sabini, for a motion to
3 petition a bill out of committee.

4 SENATOR SABINI: Thank you, Madam
5 President.

6 I have a motion at the desk. I'd
7 like to have it called up at this time.

8 ACTING PRESIDENT LITTLE: The
9 Secretary will read.

10 THE SECRETARY: Senate Print
11 1254, by Senator Sabini, an act to amend the
12 Real Property Tax Law and others.

13 SENATOR SABINI: Madam President,
14 on the motion.

15 ACTING PRESIDENT LITTLE: Thank
16 you. Senator Sabini, on the motion.

17 SENATOR SABINI: What this motion
18 does is to bring to the floor a bill that's
19 been considered in the Assembly for some time.
20 But perhaps at no time in our recent history
21 is it more appropriate than now.

22 I see we have lots of young people
23 in the gallery. And the American dream is to
24 own a piece of property or a house and live a
25 comfortable life and raise your children and

1 then retire. But yet with the cost of
2 residential properties skyrocketing in many
3 areas of our state, the owner of a residential
4 property in retirement often can't pay the
5 taxes on the increased value.

6 So you want to have increased value
7 on your property, but in some ways that is a
8 sentence for you and in fact has caused some
9 of our seniors to sell their property.

10 The bill would allow the owner of a
11 residential property, of a one-or-two-family
12 home, a coop or condominium that's the prime
13 residence of them, and their primary residence
14 is in New York State, and who is 65 years or
15 older and has less than \$5,000 earned income
16 or \$25,000 gross income, to defer their
17 property taxes.

18 Now, the property taxes wouldn't be
19 lost. Those property taxes would be taken as
20 a lien on the property. Upon the transfer of
21 title or if the owner moves to someplace like
22 Florida or Arizona for most of the year, the
23 municipality, the locality would collect back
24 taxes plus interest that would be calculated to
25 year at Moody's average for commercial prime

1 rate loans. The maximum lien would be no more
2 than 80 percent of the actual market value of
3 the property.

4 This allows the Real Property Law
5 and the Local Finance Law and the Insurance
6 Law in relation to tax deferments.

7 Many seniors who purchase their
8 homes find that as their value goes up from
9 year to year and their taxes go up, they might
10 have to sell their homes or subject themselves
11 to costly reverse mortgages only because they
12 can't afford to pay the increased property
13 taxes.

14 And it's their home, their place of
15 dwelling for most of their life, in some
16 cases, and they're forced to give it up. This
17 would allow seniors to stay at home with the
18 tax deferment and yet ultimately the taxes
19 would be paid.

20 I urge all my colleagues to join me
21 in supporting this proposal, which is carried
22 by Assemblyman Lafayette in the Assembly, and
23 allows seniors to remain in their homes and
24 not have government force them out because of
25 their wise investment in a good neighborhood.

1 Thank you, Madam President.

2 ACTING PRESIDENT LITTLE: Thank
3 you, Senator.

4 All those Senators in favor of the
5 petition out of committee please signify by
6 raising your hand.

7 THE SECRETARY: Those recorded in
8 agreement are Senators Andrews, Breslin,
9 Brown, Diaz, Dilan, Duane, Gonzalez,
10 Hassell-Thompson, Klein, L. Krueger, C.
11 Kruger, Montgomery, Onorato, Oppenheimer,
12 Parker, Paterson, Sabini, Sampson, Savino,
13 Schneiderman, Serrano, A. Smith, M. Smith,
14 Stachowski, Stavisky and Valesky.

15 ACTING PRESIDENT LITTLE: The
16 petition is not agreed to.

17 Senator Gonzalez.

18 SENATOR GONZALEZ: Yes, Madam
19 President. There will be a Minority
20 conference tomorrow, Thursday, March 17th, at
21 11:00 a.m. in Room 314.

22 Thank you.

23 ACTING PRESIDENT LITTLE: Thank
24 you, Senator.

25 Senator Skelos.

1 SENATOR SKELOS: Madam President,
2 there being no further business to come before
3 the Senate, I move we stand adjourned until
4 Thursday, March 17th, at 11:30 a.m.

5 ACTING PRESIDENT LITTLE: Thank
6 you. On motion, the Senate stands adjourned
7 until Thursday, March 17th, at 11:30 a.m.

8 Thank you.

9 (Whereupon, at 12:09 p.m., the
10 Senate adjourned.)

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