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

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.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

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

ACTING PRESIDENT LITTLE: The Secretary will read.

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

ACTING PRESIDENT LITTLE: The substitution is ordered.

Senator LaValle.

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

ACTING PRESIDENT LITTLE: So ordered.

Senator Skelos.

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

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

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

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

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

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

(No response.)

ACTING PRESIDENT LITTLE: The resolution is adopted.

Senator Skelos.

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

ACTING PRESIDENT LITTLE: The Secretary will read.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT LITTLE: The bill is passed.

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

SENATOR LIZ KRUEGER: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

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

SENATOR HASSELL-THOMPSON: Lay it aside.

ACTING PRESIDENT LITTLE: The bill is laid aside.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT LITTLE: The bill is passed.

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

ACTING PRESIDENT LITTLE: Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT LITTLE: The bill is passed.

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

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

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

ACTING PRESIDENT LITTLE: The Secretary will ring the bell.

Senator Skelos.

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

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

ACTING PRESIDENT LITTLE: The Secretary will read.

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

SENATOR SKELOS: Lay it aside for the day.

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

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

ACTING PRESIDENT LITTLE: Senator Hassell-Thompson.

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

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

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

ACTING PRESIDENT LITTLE: Thank you.

Senator Saland, will you yield?

SENATOR SALAND: Yes, Madam President.

ACTING PRESIDENT LITTLE: Thank you.

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

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

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

SENATOR SALAND: Thank you.

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

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

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

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

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

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

SENATOR HASSELL-THOMPSON: Just quickly on the bill.

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

SENATOR HASSELL-THOMPSON: Thank you.

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

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

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

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

Thank you.

ACTING PRESIDENT LITTLE: Thank you.

Any other Senator wishing to be heard?

The debate is closed.

The Secretary will ring the bell.

SENATOR SKELOS: Madam President.

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: If we can proceed, please.

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

Read the last section.

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

ACTING PRESIDENT LITTLE: Call the roll.

(The Secretary called the roll.)

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

SENATOR NOZZOLIO: Thank you, Madam President.

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

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

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

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

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

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

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

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

Announce the results.

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

Ayes, 58. Nays, 0.

ACTING PRESIDENT LITTLE: The bill is passed.

Senator Skelos.

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

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

SENATOR SKELOS: Would you please recognize Senator Duane.

ACTING PRESIDENT LITTLE: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

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

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

ACTING PRESIDENT LITTLE: Senator Duane.

SENATOR DUANE: Thank you, Madam President.

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

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

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

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

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

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

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

You know, already so many states

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

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

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

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

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

ACTING PRESIDENT LITTLE: The

petition is not agreed to.

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

SENATOR SABINI: Thank you, Madam President.

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

ACTING PRESIDENT LITTLE: The Secretary will read.

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

SENATOR SABINI: Madam President, on the motion.

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

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

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

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

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

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

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

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

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

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

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

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

Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator.

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

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

ACTING PRESIDENT LITTLE: The petition is not agreed to.

Senator Gonzalez.

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

Thank you.

ACTING PRESIDENT LITTLE: Thank you, Senator.

Senator Skelos.

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

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

Thank you.

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