NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

September 15, 2006

2:47 p.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.

Everyone is rising for the Pledge of Allegiance.

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

THE PRESIDENT: With us this afternoon to give the invocation is the Reverend Peter G. Young, of Mother Theresa Community, in Albany.

REVEREND YOUNG: Let us pray.

In the desire to make us share in God's love, to aid in gentle kindness, to help those that are weak, sick, and unfortunate, it is love for God that He has called us then to show mercy. And, God, by Your love You made a world where we have become neighbors to each other, and we are enabled to love one another.

Grant that we do these good things with the Senate, therefore, that will strive toward a way of life in keeping with God's plan.

But especially today we want to remember the dedicated law officer that gave

his life to institute justice and to institute a love for all people. We pray that You will remember him in his most dedicated life.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Thursday, September 14, the Senate met pursuant to adjournment. The Journal of Wednesday, September 13, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MAZIARZ: 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 Bruno.

SENATOR BRUNO: Mr. President, if we could adopt the Resolution Calendar, with

the exception of Resolutions 6374, 6396, and 6402.

ACTING PRESIDENT MAZIARZ: All in favor of adopting the Resolution Calendar, with the exceptions, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Mr. President --

ACTING PRESIDENT MAZIARZ: Could we have some order in the chambers, please. Could we ask all members to please take their place their seats in the chamber.

Will the Sergeant-at-Arms please direct all the members to return to the chamber.

SENATOR BRUNO: Mr. President, we need whatever conversations that are not directed to the chair to be outside.

And thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank

you, Senator Bruno.

Again, we'd ask the Sergent-at-Arms to make sure that all conversations are taken outside the chamber and that all members are asked to please report to the chamber and take their seats.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe that I have a privileged resolution at the desk. I would ask at this time that it be read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 6439, mourning the untimely death of Joseph Anthony Longobardo, of Middle Grove, New York, and paying tribute to his courageous actions as a New York State Trooper.

"WHEREAS, It is the sense of this Legislative Body to convey its grateful appreciation and heartfelt regret in recognition of the loss of courageous individuals who dedicated their purposeful

lives and careers to serve and protect; and

"WHEREAS, Joseph Anthony Longobardo, of Middle Grove, New York, died on Sunday, September 3, 2006, at the age of 32; and

"WHEREAS, New York State Trooper Joseph Anthony Longobardo made the ultimate sacrifice while faithfully executing his responsibilities, serving with dedication, loyalty and compassion; and

"WHEREAS, Born on May 24, 1974, in Amsterdam, New York, Joseph Anthony Longobardo is the son of Anthony and Gayle Longobardo. He attended Marie Curie Eastside Elementary School and was a 1992 graduate of Amsterdam High School; and

"WHEREAS, In 1992, he enlisted in the United States Marine Corps. After completing boot camp and advanced training, he was assigned to embassy duty, providing high-level personal protection to dignitaries at various posts, including Pakistan and Uruguay; and

"WHEREAS, His decorations and awards included the National Defense Service

Medal, Good Conduct Medal, Navy-Marine Corps Overseas Service Ribbon, Rifle Expert Badge, Pistol Expert Badge, and numerous letters of appreciation and meritorious mast. Joseph Anthony Longobardo was honorably discharged from the United States Marine Corps as a sergeant in January of 1997; and

"WHEREAS, Joseph Anthony Longobardo was currently serving with the 109th Airlift Wing as a master sergeant in the Security Forces Squadron at Stratton Air Force Base in Scotia, New York. While serving, he participated in Operation Enduring Freedom and Operation Noble Eagle. He was also a member of the United States Air Force Security Forces Phoenix Raven, a unit that responds to critical incidents worldwide; and

"WHEREAS, He was a graduate of Schenectady County Community College and the American Military Institute, receiving degrees in criminal justice; and

"WHEREAS, Trooper Joseph Anthony Longobardo entered the New York State Police Academy on November 2, 1998. Although his first year was spent in Troop K at Dover

Plains, most of his time with the State Police was spent at Troop G, assigned to the Fonda barracks in Fultonville; and

"WHEREAS, During his eight-year career, Joseph Anthony Longobardo received numerous commendations for his investigations and arrests. In 2002, he received a commendation from the Montgomery County District Attorney for his contributions in successfully closing a murder investigation in 2001. He was awarded the Troop G, Zone 3 'Trooper of the Year' Award for 2004. He was also a field training officer for probationary troopers who had just graduated from the State Police Academy, as well as a defensive tactics instructor for recruits in the academy; and

"WHEREAS, Although he served in numerous capacities, Trooper Joseph Anthony Longobardo generally led his fellow troopers in arrests -- DWI, drugs, misdemeanors and felonies. After the terrorist attacks of September 11th, he was recalled to active duty in the New York Air National Guard for approximately a year and a half, once again filling in wherever needed; and

"WHEREAS, In 2006, Joseph Anthony Longobardo was one of four troopers assigned to Troop G who were selected to join the elite Mobile Response Team, known as the MRT. In June of 2006, he graduated from the six-month MRT training session; and

"WHEREAS, In addition to his parents, Anthony and Gayle Longobardo, New York State Trooper Joseph Anthony Longobardo is survived by his loving wife of four years, Teri E. Longobardo; his 13-month-old son, Louis M. Longobardo; his sister, Dawn Longobardo; father-in-law and mother-in-law, Terry and Suzanne LeMere; brothers-in-law Timothy LeMere and Thomas LeMere; and sister-in-law Tricia LeMere; and

"WHEREAS, New York State Trooper Joseph Anthony Longobardo lived his life with great dignity and genuine grace, always demonstrating a deep and continuing concern for the welfare of others in the great State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to mourn the untimely death of Joseph Anthony Longobardo of

Middle Grove, New York, noting the significance of his contributions on behalf of the citizens of this noble Empire State; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the family of New York State Trooper Joseph Anthony Longobardo."

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President and colleagues.

We have Teri Longobardo here with us; her mom and dad, as you heard, Suzanne and Terry; Joe Longobardo's brothers, Tim, Tom; sister-in-law Trish; other members of the family; Gayle, his mom.

You just heard a chronicle that took just a couple of minutes to review and read, but it chronicled a lifetime of a hero. We use the word "hero" many times in our daily lives, and you wonder really if it isn't used sometimes too loosely. But in this case, Joe Longobardo is a hero.

You heard he spent his life, his

adult life in service to other people, in service that put him in harm's way. You know, our country, this state, our freedoms were built on people who just lay down their plows, left their places of business, left their families and went to fight -- and are still fighting, all over the world, to keep us free.

Joe stepped up early in his life, went into the Marines, distinguished himself, a decorated Marine. And when he got out of the Marines, where he was constantly at risk, he was in the U.S. Air Force Reserve, as you heard, as a sergeant, again placing himself in a position to be called anywhere at any time.

And when he was in the troopers, Joe wasn't satisfied to be a trooper. And being a trooper is quite a challenge in itself. Because all of us that enjoy a quality of life here, we enjoy a quality of life. Why? Because we can be in our homes safely, places of business, on the street. Why? Because we have troopers. We have law enforcement. We have people who are willing to get up in the morning, not sleep at night, to protect us here, everywhere, wherever you

go. And how do they do it? Constantly by putting themselves in harm's way, putting themselves out front.

Joe Longobardo was one of an elite group of four in the troopers that were like called into duty when things were extreme and hazardous. Didn't have to do that. Took specialized training, specialized commitment, special courage. You think about it: Day, night, being called upon.

He was called upon when this desperado, this demented individual, really, who had already shot a trooper was in the woods out in the western part of the state. Joe, with Trooper Baker -- to whose family we extend our prayers and our thoughts, because he presently is in a coma; he was the partner there with Joe and was shot at the same time.

Now, Joe was there with Trooper Baker, not knowing that this individual was sneaking like a rodent there in the woods with a rifle, .308 high-powered rifle that can shoot, if it has to, 2 miles, with armor-piercing bullets. And Joe was doing everything that he should do and could do.

And this person, when you think about it, wasn't facing them in any way, wasn't challenging them in any way, sneaks up and shoots them. And as a consequence, Joe's life was taken.

Now, Joe knew every day that he got up that his life was on the line. Teri, his wife that's here in the front, next to the trooper, and his mom and dad -- Gayle, Tony -- your mom and dad, brothers, sisters, in-laws, they're a great, great family. They're a family of teachers. Teri is a teacher. They're a family of givers, sharers. So Joe comes with that heritage.

But, Teri, we just want you to know in the Senate, and with our colleagues in the Assembly, and everyone in government -- and I know, I heard the Governor speak this past week at Joe's funeral. Where, by the way, 6,500 law enforcement people came from all over this country to pay their respects, from Canada, to pay their respects. They didn't have to do that. They could have sent notes, they could have called, they could have been represented, they came themselves to pay their

respects to a hero.

Teri and Joe have a son, 13-month-old Louis. Now, Louis is going to grow up, you're going to go on with your life, because you have the courage. You are going to be the living part of the heritage that your husband leaves. And this resolution that we pass here today that everyone will vote on, and hopefully all will sign on as sponsors, this will become a permanent record of the history of this state. So when Louis grows up, his children and his grandchildren will recognize by the number of this resolution which you heard and that will pass here today.

So it's our privilege to pass a resolution honoring an individual like your husband, who represents all of the good things that make our lives here in this state -- and really throughout the country and throughout the world for free people -- what our lives are.

And without him stepping up -- and we just extend our thoughts be our prayers and our condolences, because he gave his life so that we could be here, like this, legislating

in freedom, and people like us all over the world governing in freedom. That's Joe's heritage. That was his commitment, and that was his sacrifice.

So, Teri, on behalf of the Senate, again, we extend our best thoughts to you and to your family and to your future and to Louis's, and our constant prayers. God bless.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Bruno.

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

And thank you to the Majority Leader for clearly outlining the service of the late Trooper Joseph Longobardo, and recognizing his family, who through their own pain are able to join with us today in a harmonious celebration of his life and the warmest prayers that we have for his family -- for his wife, Teri; his son of 13 months, Louis; his parents, Anthony and Gayle; and for all the other family members who have been able to come and join us here today.

It's very difficult for us to think of the words that would express our most heartfelt feelings for all of you being able to pull together and resume your lives. Also how difficult it is for all of us to comprehend such a heinous crime, attacking two state troopers -- doing their jobs, doing their duty -- in the middle of the night, from the back, in such a vicious manner as Senator Bruno described.

You wonder what kind of a mind feels comfortable taking that kind of an action. And certainly that our society will punish that individual to the full extent of the law is in the hearts of all of us who are here today.

Senator Bruno pointed out the great work that Joseph Longobardo performed. He was a member of Troop G -- I had a roommate for six or seven years, a trooper who was in Troop G -- he did a short stint in Troop K and then went back to Troop G. And his tremendous heroism even at the time of his shooting, how he went to the aid of his partner, Donald Baker, for whom prayers are required from us

now as he still suffers in a hospital in Pennsylvania.

And that this was not just the outpouring of effort by one state trooper, it really is collectively the feeling and the courage of so many law enforcement officials, 8,000 to 10,000 strong, who attended this particular funeral.

After 21 years of public service, I thought that you'd start to feel tired or jaded going to these types of funerals. And what I find is you feel more enraged and more shocked at the families left behind, the work not completed, and the terrible stain on our society that we have predators in our society that commit crimes of such magnitude and negativity.

We are so proud of the work that Trooper Longobardo and those who were there, what they did. And this is the third time I've watched this, is all the law enforcement officials present marched up to the front of the church and marched past the casket and out. It took over an hour for all of them to go through as briskly as they did.

But it made a statement about our society, it made a statement about our government and it made a statement about the democracy in which we live, that we will be undaunted by these tragedies, we will not in any way be inhibited by the attacks on our country or the symbols of law enforcement in our country, and we will not give up the great dream that we have for freedom and equality for all people at the behest of this disaster that occurred in our state, the third such instance of loss for the New York State Police. And unfortunately, and tragically, we kind of know that this is part of the danger that accompanies the jobs they perform.

And so in great homage that we pay for those who have paid the ultimate price, we should pause in our deliberations as residents of the State of New York just to take a second look at all of our law enforcement officials who march among us, to know the tremendous effort that they wage and the tremendous risks that their families take by having them perform that function.

It makes us proud to be New Yorkers

and, even in the sadness of this moment, makes us raise afresh and know that we will hew the enemies of freedom and justice down -- over and over, if it takes it -- to preserve the great democracy in which we live.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Paterson.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: Teri, Mr. and Mrs. Longobardo, on behalf of all the members of the New York State Senate, I want to offer you our heartfelt condolences and also, and more importantly, our heartfelt thanks for the service of your husband and son Joseph. Thank you.

The resolution is adopted.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: And, Teri, would you stand up and just let the members acknowledge Teri.

(Extended standing ovation.)

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: Mr. President, can I ask that we put all of the chamber members on the resolution unless they would quietly go up to the desk and indicate otherwise.

ACTING PRESIDENT MAZIARZ: So ordered.

SENATOR BRUNO: Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: Mr. President, I believe there is another privileged resolution at the desk, by Senators LaValle and Trunzo. I would ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: By Senators

LaValle and Trunzo, Legislative Resolution Number 6449, mourning the untimely death of New York City Fire Department Lieutenant Howard Carpluk, distinguished citizen and devoted member of his community.

ACTING PRESIDENT MAZIARZ: Senator LaValle.

SENATOR LaVALLE: Thank you, Mr. President.

Howard Carpluk gave his life on August the 28th, fighting a four-alarm fire in the Bronx. He gave his life to ensure that those under his oversight were doing what they needed to do. And in the line he gave his life, along with another young, probationary firefighter, Michael Reilly.

Howard Carpluk, however, being a lieutenant, demonstrated leadership not only in the department but in his community. He was certainly loved by his family, but he was loved and respected by those that he worked with.

Howard Carpluk gave, donated his organs upon his death, so in our society there are some very lucky people that will also, I

am sure, capture his spirit, his energy, and his humanity for his fellow well-being.

And certainly we, with the family, are very appreciative of what he gave to us, and we know he's looking down, and in a very happy way -- because one of the things I understand is that he loved to be a practical jokester, so I am sure that both at the firehouse and at home there will be funny things that will continue to happen. We respect what he has done very much.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator LaValle.

Senator Trunzo.

SENATOR TRUNZO: Thank you, Mr. President.

Although he was a firefighter that lived in my district, Lieutenant Howard Carpluk, Jr., I really didn't know Mr. Carpluk.

But the type of reception that he received the day of his wake in the town of Islip was really amazing and fantastic, with firefighters coming from all over the country

in order to pay homage to their man. As I say, I didn't know Mr. Carpluk, but he certainly had tied up the entire town of Islip for many, many hours, with every street and the main street was really packed, and nobody could really get around, even to get to the funeral parlor that was there.

But I pay respects to him and his wife, Debra, and their children on this occasion of his death, and wish him and Mr. Reilly, the other firefighter who also passed away for the same fire, I wish them whatever necessary, that God is watching over them and will be with them forever.

Thank you.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Trunzo.

Senator LaValle.

SENATOR LaVALLE: Can we open the resolution to all the members of the house?

ACTING PRESIDENT MAZIARZ: Any member not wishing to be on the resolution please report to the desk.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there's a privileged resolution at the desk, 6448, by Senator Spano. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: By Senator Spano, Legislative Resolution Number 6448, mourning the untimely death of Firefighter Michael C. Reilly, distinguished citizen and devoted member of his community.

ACTING PRESIDENT MAZIARZ: Senator Spano.

SENATOR SPANO: Mr. President, the only thing Michael Reilly ever really wanted to do, his life's goal, was to be a New York City firefighter.

He served our country, he was a Marine, he served us in Iraq, was in Baghdad, was part of an elite rescue squad. Grew up in New Jersey, where he was a volunteer with the rescue squad there starting at age 16. See, the only thing he ever really thought about, the only job he ever really wanted was to be a New York City firefighter.

And he got his goal. And then on August 27th, while he was battling that four-alarm fire in the Bronx, he lost his life. Lost his life as a firefighter, but what made it even hurt more was as a probationary firefighter, with his lieutenant at his side.

It made it even more profound as we see our police officers and our firefighters on a daily basis who put on that uniform and go to work and never quite know what kind of day they're going to have and whether or not they're going to even return.

So we have this resolution, which is a very small way that we can somewhat acknowledge the life of someone who is a resident in Westchester County, served us in

Engine Company 75 in the Bronx. He is survived by his parents, Michael and Monica Reilly, his brother, Kevin, and his sister, Erin.

The family suffered a tremendous loss. The family of firefighters suffered a tremendous loss. The family of uniformed service workers who protect us every day all shared that loss. And we today join with their family members and all of their brothers and sisters across this state in mourning his death and celebrating his bravery and life, the bravery and life of firefighter Michael Reilly.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Spano.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could open that resolution to cosponsorship. If any member wishes not to cosponsor the resolution, they should notify the desk.

Mr. President, there's a resolution at the desk, 6374, by Senator Larkin. Could we have the title read and move for its immediate adoption.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: By Senator Larkin, Legislative Resolution Number 6374, memorializing Governor George E. Pataki to proclaim Friday, September 29, 2006, as Orange County Veterans Memorial Day in the State of New York.

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

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could open that up for cosponsorship. Anybody who wishes not to cosponsor the resolution should notify the desk.

There's a resolution at the desk, Mr. President, Resolution 6402, by Senator Maltese. If we could have the title read and move for its immediate adoption.

ACTING PRESIDENT MAZIARZ: Any member wishing not to be on that last resolution please report to the desk.

The Secretary will read Senate Resolution 6402.

THE SECRETARY: By Senator Maltese, Legislative Resolution Number 6402, honoring the members of the Fire Department of the City of New York and the Port Authority of New York and New Jersey for their sacrifices made on September 11, 2001.

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

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: If we could open it up for cosponsorship, please.

ACTING PRESIDENT MAZIARZ: The resolution is opened up for cosponsorship. Any member not wishing to be on the resolution should report to the desk.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could just stand at ease for about 30 seconds.

ACTING PRESIDENT MAZIARZ: The Senate will stand at ease.

(Whereupon, the Senate stood at ease at 3:20 p.m.)

(Whereupon, the Senate reconvened at 3:23 p.m.)

ACTING PRESIDENT MAZIARZ: The Senate is called back to order.

Could we please have some order in the room. We have a most important resolution.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe I have a privileged resolution at the desk, Number 6396.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

SENATOR BRUNO: In its entirety.

ACTING PRESIDENT MAZIARZ: In its entirety.

SENATOR BRUNO: And I would then move for its immediate adoption.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Bruno.

Could we please have some order.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 6396, congratulating the East Greenbush/Castleton Little League 9-and-10-year-old All-Star Team upon the occasion of capturing the 2006 New York State Championship.

"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, Attendant to such concern, and in full accord with its long-standing traditions, it is the sense of this Legislative Body to congratulate the East Greenbush/Castleton Little League 9-and-10-year-old All-Star Team upon the occasion of capturing the 2006 New York State Championship; and

"WHEREAS, On the way to the 2006 New York State Championship, the East Greenbush/Castleton Little League 9-and-10-year-old All-Star Team secured the New York State District 14 and Section 2 championships, and outscored its opponents 129-11, to finish with an 11-0 record; and

"WHEREAS, The athletic talent displayed by this team is due in great part to the efforts of Manager Tom Hall and Coach Steve Casavant, skilled and inspirational

tutors who have done a superb job in guiding, molding and inspiring the team members toward their goals; and

"WHEREAS, Loyally and enthusiastically supported by family, fans, friends and the community at large, the members of the East Greenbush/Castleton Little League 9-and-10-year-old All-Star team have clearly made a contribution to the spirit of excellence which is a tradition of Rensselaer County; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and the outstanding athletes on the East Greenbush/Castleton Little League 9-and-10-year-old All-Star Team have clearly proven themselves to be a reflection of those values; and

"WHEREAS, It is the sense of this Legislative Body that when young people who represent their community with pride and determination while participating in competitive sports are brought to our attention, they should be celebrated and recognized by all the citizens of the great

State of New York; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the East Greenbush/Castleton Little League 9-and-10-year-old All-Star team, its members -- Tyler Casavant, Kyle Gronostaj, Kyle Hall, Ryan Henchey, T.J. Hickey, Zach Kivitz, Jack Masseroni, Ryan Puentes, Tyrell Ramsey, Jimmy Smith, Kevin Smith, and Mark Uhlig -- Coach Steve Casavant, and Manager Tom Hall upon the occasion of capturing the 2006 New York State Championship; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the East Greenbush/Castleton Little League 9-and-10-year-old All-Star Team, Coach Steve Casavant and Manager Tom Hall."

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: Mr. President and colleagues, you just heard about a championship team. Now, I want you to know that it is my privilege to be the Senator of this championship team. And you do me a great honor by being state champs. And I know

you're out there.

Now, I want to think about this. Tom, I know that you will be -- Neil, these are neighbors of yours right here. Right? Right there. See them? They're 9-and-10-year-olds.

Now, think about this. They won 11 games straight in the sections to get to the championships. And then -- where's Senator Maltese? They defeated your team, I'm sorry, right here.

(Laughter.)

SENATOR BRUNO: And on their way, they scored 129 runs against 11. Think of that. Sorry, Senator, they defeated your team 9 to 2. Right?

And look at them. They had a batting average of .414. That's almost one for two.

You are All-Stars. You are champions. And this resolution is going to be part of the history of this state. And when you go on doing the kinds of things that you're doing, with the support of your parents, your friends, Tom Hall, your manager,

Steve Casavant, who's here, you are going to continue the great tradition of being a champion. You're champions, state champs. That is some accomplishment and some honor.

But you know what's important? They're dedicated, they're committed, they're enthusiastic. They're good, young citizens. Good students. Good friends. Good children. Your parents are proud of you. Your teachers are proud of you. You know what? I'm proud of you. And everybody in this chamber is proud of you.

So congratulations to your parents and to all of you. Now you go on with your life, as you go on through school, you continue to do the kinds of things that make you individually champions. And by working together, as a team, you become team champions. And that's what makes our lives what they are: working together, supporting each other, being the best that you can be.

So right now you're the best that you can be as the champions of New York State in your league. Congratulations to all of you, and God bless you.

Thank you, Mr. President.

ACTING PRESIDENT MAZIARZ: Thank you, Senator Bruno.

The question is on the resolution. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: The resolution is adopted.

Congratulations very much, boys. We appreciate you being here today.

(Applause.)

ACTING PRESIDENT MAZIARZ: Senator Bruno.

SENATOR BRUNO: And, Mr. President, can we at this time return to reports of standing committees.

I believe there's a report from the Judiciary Committee, and I would ask that it be read at this time.

ACTING PRESIDENT MAZIARZ: The Secretary will read.

THE SECRETARY: Senator

DeFrancisco, from the Committee on Judiciary, reports the following nomination.

As an Associate Judge of the Court of Appeals, Honorable Eugene F. Pigott, Jr., of Grand Island.

ACTING PRESIDENT MAZIARZ: Senator DeFrancisco.

SENATOR DeFRANCISCO: I rise to proudly move the nomination of Eugene F. Pigott, Jr., of Grand Island, as associate judge of the Court of Appeals.

We had a Judiciary Committee meeting yesterday, we have reviewed his qualifications, and the nominee was recommended unanimously by that committee to the full Senate for his confirmation.

Briefly, I would just like to say that I've known Judge Pigott. I know not only that he is an excellent judge, an excellent lawyer, but an excellent and wonderful person with integrity that we need on the bench.

I particularly applaud the Governor's appointment because Judge Pigott has common sense, good experience from actually being in the trenches to try cases.

And I think that's a quality that all judges should have that are passing upon the results of various trials that take place in courts below.

He is a man of integrity and a man that we really are proud to recommend to the full Senate.

And to second that nomination, I would like to call on Senator Dale Volker.

ACTING PRESIDENT MAZIARZ: Thank you, Senator DeFrancisco.

Could we just have a little bit of order in the room, please.

Senator Bruno.

SENATOR BRUNO: Thank you, Mr. President. Thank you, Senator.

I am just going to add a comment to Judge Pigott and really commend the Governor for such a fine selection of an outstanding individual who has in his life so far accomplished some great things.

And he probably couldn't have done those great things without his wife, Peggy, who is there by his side; without his daughter, Martha, that's there on his left;

and without his son, Captain David Pigott, who is at this time in Iraq and we hope maybe on the Internet, following this proceeding.

This is a distinguished family, this is a distinguished gentleman, this is a man who has excelled in his life in public service. And we are really proud to have this nomination on the floor.

And I know that all of us here will be proud to be supportive and to see you go on, Judge, in the great work that you have been doing in the great tradition of the judges of the Court of Appeals in this state, who most of the time make great decisions and right decisions. And on occasions they do some things that may need your diligence and your review, but that will come with time.

Thank you very much and congratulations to you. God bless you and your family and your work. Thank you to your son for his valor and his bravery and being in service just keeping people free throughout the world. You can be proud of him, as you are of your daughter, who I know is an outstanding individual, and your wife. You

have a great family, and you are an outstanding individual.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Bruno.

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

I just wanted to add my voice to Senator Bruno's, who certainly complimented Judge Pigott and spoke well of the Court of Appeals. Listening to his comments, I got the feeling Senator Bruno thought that he should be nominated to the Court of Appeals today. But as good an idea as that might be, short of it, I think Judge Pigott will serve with distinction.

Judge Pigott was going to be speaking and attending a dinner in Rochester this evening, and he told them that he had to come down to be confirmed today, and they said, "Well, Senator Paterson is going to be there." So Judge Pigott is going to try to get back up to Rochester as soon as he can, and then, just to make sure that he doesn't

get there and get further agitated by my acts today, I will be there as well.

But for a long period of time in the Appellate Division, the judge has served with distinction. This is certainly a fine nomination by the Governor.

I just wanted to clear up the fact that we are not in any way impugning the reputations or the great work of any of the outstanding appointments that have been made to the Court of Appeals, to the Appellate Division, or anyone else. But we're just pointing out that, as the famous inscription on the great courthouse in New York: "The administration of justice is the firmest pillar of good government."

And the administration of justice has to include all the talented people around the state who happen to be women, half of the state's population; happen to be African-American, 16 percent of the state's population; happen to be Hispanic, 15 percent of the state's population, or Asian, 9 percent of the state's population.

There is great talent, great

ability, great service, great distinction, and certainly documented evidence of it in candidates all around this state. We are just arguing that they be considered so that they, who have that kind of talent, can serve all along with those of outstanding talents such as Judge Pigott.

And my congratulations go out to him. I never met the judge's son, but I have met his very lovely wife and daughter earlier today, and I know they're proud of him. And he will make this state even more proud of him than we've been to this point because of his outstanding service that rendered this nomination today.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Senator Volker.

SENATOR VOLKER: Mr. President. And I can't deny that this is a very proud day for myself and for Western New York.

There has been a hoax in Western New York that there hasn't been a judge on the Court of Appeals since Judge Jason, Matthew Jason, who actually was the chief judge.

A friend of mine and a former Assemblyman -- I think he was from Western New York -- Dick Wesley, who is a very close friend of Gene's also, was a judge for a while. But of course he was making such rapid progress that he moved on to other things.

But the appointment of Gene Pigott represents, in my opinion, another one of the great appointments of Governor George Pataki. And I've said this before, and I'm going to say it again -- this is the last appointment, barring some disaster or whatever, that Governor Pataki will make on the Court of Appeals -- I personally believe that -- I've been in this house 32 years, 34 years in both houses -- no governor has ever done as good a job, in my opinion, with appointments as George Pataki has.

The process, by the way -- it's a little frustrating occasionally, because there isn't the kind of guarantees there used to be that if the Governor wants somebody, that he can get them. I can assure you that, you know, there's been a couple of incidents where the person that George Pataki wanted was

turned down by his own committee. But that's part of democracy. I've often said some people say there's too much democracy, but I guess it depends on your perspective.

But Gene Pigott was one of a cadre of people who were reviewed by the fitness and selection committee, and despite the fact that we had somebody yesterday who objected to the process because she didn't know anything about it -- unfortunately, who knew nothing about the whole system, but that's beside the point -- it's a great system. And we have probably as good a judiciary as any place in the nation.

But we do need somebody as assistance on the Court of Appeals to make sure that all the people in this state, in my opinion, are represented. And we need somebody who doesn't decide that he or she should make decisions against the wishes of the majority of people represented by the Legislature.

I can only cite a Carter-appointed judge in Michigan who may have impugned the President of the United States' ability to

secure this country with a decision on wiretapping and so forth. It is not the place of the judiciary to make decisions that override generally accepted law. And I only mention that because I think it's important.

But I will say this about Gene, and I've known him for many, many years. In fact, he became a judge because of the unfortunate illness of a very close friend of mine, Judge Wolf, who is still around but very, very ill, and the death of another very close friend of mine lifted him to -- or the -- well, she died a little after, later, Dolores Denman, who was also very close to Gene and to all of us, who was a classmate of mine in law school.

And I told the story about how I admitted to the chief judge that actually Dolores Denman was my choice for chief judge of the Court of Appeals. But it was pretty obvious why; we were great friends, and she was a good person.

But Gene Pigott has always been a model of judicial conduct. And he's very, very popular with the judges in Western New York. And that's not just the younger

judges, because you must -- I assume that you understand, those of you that practice law, that there's sort of a diversity of judgeships. And some of the older people get a little crotchety sometimes about some of the younger people that do things.

But Gene Pigott has always been a person who will talk to everyone. In fact, and I will say this, on several occasions where he had decisions to make on cases, he did call me and called other lawyers. One of them that was mentioned was the $75 -- or the increase in assigned counsel fees. And both of us agreed with that, by the way, but the law was otherwise. And he did say to me, "Are you people in the Legislature going to do that?" I said, "Don't worry, we'll take care of it."

But my point was that even though he realized that his own personal feeling was on behalf of the litigants who were asking for the changes, they wanted a judge to make the changes rather than the Legislature. That's not the way it's supposed to be done. And he agreed with that, and he took care of it.

So all I can say is that Gene is, in my opinion, a true moderate. And I was challenged by the idea of moderation by my friend in front here. But by that I mean he's a balanced person who I don't expect to always make decisions, by the way, that I agree with. Most people don't, but that's neither here nor there.

But seriously, he's a person I believe, though, that is fair and just and will make decisions I think that, generally speaking, this house will feel is proper for the Court of Appeals.

And very important, Gene, I wish you the best of luck. I also want to say from my good friend and your good friend Tom Reynolds, congratulations.

ACTING PRESIDENT ROBACH: Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, on the nomination.

Mr. President and my colleagues, I rise with great pride in endorsing wholeheartedly Governor Pataki's nomination of Judge Gene Pigott to the United -- to the

New York State Court of Appeals. Got ahead of myself.

It's interesting that Governor Pataki's first appointment to the Court of Appeals, Dick Wesley, a number of years ago was from the Fourth Department, and Gene Pigott, our nominee today, is from the Fourth Department. And as Senator Volker indicated, this very well could be the Governor's last appointment. So that's a nice sandwich for Western New York.

And that certainly we look to Judge Pigott as being certainly extremely well qualified for this position, but, as importantly, he has earned this position. He has earned the right to go to the Court of Appeals because he's been an outstanding judge at the trial court level, at the appellate court level. He understands the court system and, more importantly to us, understands Western New York.

That I am very proud that he has been chosen for this important position. I know he will serve with great distinction and that he does us all honor. We're proud to

know him and very proud that this nomination is moving forward.

Thank you, Mr. President.

ACTING PRESIDENT ROBACH: Thank you, Senator Nozzolio.

Senator Smith.

SENATOR MALCOLM SMITH: Thank you, Mr. President. On the nomination.

I rise to support the nomination of Justice Gene Pigott, who clearly has had a distinguished record in the Appellate Division.

But more importantly than that, in addition to being a Vietnam vet -- of course which we all know is near and dear to many of the members in this chamber -- I will tell you that I knew he had humility when I ran into him in the cafeteria today. And there he was, by himself -- I think his wife was with him. They were strolling through the cafeteria like they were workers up in here in the chamber. And you would have never known this is a gentleman who was about to become appointed to the highest court in the State of New York. And it was then that I recognized that that

kind of humility will only do the bench well.

But I would be remiss also, Mr. President, if I didn't at least, for the record and to my colleagues who are here, underscore what Senator Paterson also raised earlier. And that is the importance, as we go forward, in terms of diversity on the bench.

While we obviously know that we are not the ones that hand up names to the commission, who hands it to the Governor, we do have the authority to either vote yea or nay on those particular nominees. And it is very clear to me, given the way things are on the Court of Appeals as of right now, there will be a tremendous void with regard to diversity.

And therefore it is my hope that as we move forward we'll be very sensitive to that issue. Sensitive because, as you know, the public clearly will have more confidence in our justice system if they recognize that there is a bench that is rich with the same diversity that we have in the State of New York.

We have 55 appellate justices in

the State of New York, two of which are African-American, two of which are Hispanic, one of which is Asian. And clearly that being the back bench for the Court of Appeals in terms of where they are selected from, it becomes critically important that that particular Appellate Division represents what we have as a rich diversity in the State of New York.

But I am proud to support the nominee. I think he will do a great job. And I'm quite sure his wife is happy that this day has come.

Congratulations to you, Judge. Peggy, also to you too.

ACTING PRESIDENT ROBACH: Thank you, Senator Smith.

Senator Rath.

SENATOR RATH: Thank you, Mr. President.

I rise to support the Governor's nomination and congratulate the Governor on such a wise choice.

I am happy to see Peggy, Mrs. Pigott here and Martha here, neighbors

and friends from Western New York.

Judge Pigott and I started out together many years ago. And Gene was always -- pardon me for calling you Gene, but that's what it is -- always smarter than the rest of us and worked harder than the rest of us.

And in his very first venture into public life, he was not successful. And so you see what happens to people who are not successful on their first venture; they ascend to the highest court. You see those were successful on their first venture, we labor in the fields.

And that's not saying that the judge will not be laboring in the fields, because I know his work ethic. And he will be laboring in the fields.

And as you know, I was married to a judge, a Supreme Court judge, who, when Gene Pigott ascended to the bench, was delighted because he knew that there was someone of judicial temperament. And however the decisions came out in my husband's opinion was one thing, but if you have judicial

temperament and a respect for the law and the bench and the bar, that was critical.

And I've heard that reflected in the comments of others. Senator Smith just a moment ago said something that reflected that thought, and Senator Volker and Senator Nozzolio reflected those thoughts.

His experience is far and deep beyond -- before the bench, county attorney, clerk of the county legislature. I remember the days well. And so I know from work ethic as to what we're going to see from this judge.

And I'd like to read you just a small piece that appeared in the Buffalo News today, and these are Gene Pigott's own words: "'I don't think I'm much smarter than this body or any other court,' said Pigott, pointing out unpopular decisions he has made because a law may have expired. He added that statutes passed by the Legislature have to 'be the basis of any decision we make.'"

I think that's reassuring to legislators, Judge Pigott. And I know that there are decisions that you have made that I have not agreed with. But what I do know

beyond that is that I trust you, I trust your personal decisions, I trust how thoughtful you will be as you come to those decisions because I know you well. And that gives me great confidence that you will serve with distinction on the bench.

And I would say, in closing, number one, Judge Pigott does not take himself too seriously, we know that. And that's part of his judicial temperament. But what I do know is that you take the law and your responsibility to the people of the State of New York very seriously.

Congratulations. We are happy that you're going to be serving in this position.

ACTING PRESIDENT ROBACH: Senator Maziarz.

SENATOR MAZIARZ: Thank you very much, Mr. President.

I too rise, along with my colleagues, in support of this nomination.

I've known Judge Pigott for a number of years in Western New York. He's fair, he's honest, has a high degree of integrity. An excellent appointment by the

Governor to the court.

Judge, when one of the clerks said to me -- they asked me if I thought that you would be a little bit upset by the fact that we had to do the East Greenbush Little League resolution before we did a nomination to the Court of Appeals. I said, "No, Judge Pigott worked in the Erie County legislature. He'll understand this stuff that goes on here."

But again, I want to congratulate Judge Pigott, most particularly his family, and most particularly his son David, who's watching via the Internet in Iraq today.

And, Judge, you were here on a very difficult day for us with the resolution that we had. And I would just ask you, Judge, during the confirmation process yesterday in front of the Senate Judiciary Committee one of the people who testified in your behalf talked about the importance that you placed upon legislative intent when you made your decisions during the course of your legal career.

And I would only implore you to remember the victims of crimes. I think all

too often victims or their families, in the instances when someone is murdered, they look to the court. It's their only place that they can look to for justice for those individuals who are no longer here.

And I would just ask you that in the weighty decisions that you have coming before you in the future on the court that you keep those individuals in mind. A lot of those people have a rather low economic station in life. They're not professors, doctors, lawyers, senators; they're not in public service. But they're human beings, and they deserve justice just like everyone else.

So I would only implore you and ask you, and I know that you will, from your past record, keep those victims of crimes in mind.

Mr. President, I wholeheartedly endorse this nomination. Thank you.

ACTING PRESIDENT ROBACH: Thank you, Senator Maziarz.

Senator Stachowski.

SENATOR STACHOWSKI: Thank you, Mr. President. I too rise to second the nomination of Justice Pigott.

And I think that he'll do a marvelous job. In talking to judges and lawyers, they all had nothing but good things to say about him, which is surprising on its own. I didn't hear anybody say anything bad.

I know Justice Pigott since he was in the county legislature, which goes back quite a ways. And more important than all his decisions, I'm proud to say that Judge Pigott's my friend, and I'm glad to see him get this position.

And piggybacking off something Senator Maziarz alluded to, and Senator Volker, I think it's a great comment to say that here's a judge that says that legislative intent is very important to him, and the Governor sent him up anyway.

(Laughter.)

SENATOR STACHOWSKI: So the fact is I think that Judge Pigott will do a great job, and I'm proud to have had the opportunity to second his nomination.

ACTING PRESIDENT MAZIARZ: Any other Senator wishing to speak on the nomination?

On the nomination of Eugene F. Pigott, Jr., as an associate judge of the Court of Appeals, all in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MAZIARZ: Opposed, nay.

(No response.)

ACTING PRESIDENT MAZIARZ: Judge Pigott is hereby confirmed as an associate judge of the Court of Appeals.

I want to introduce Judge Pigott, his wife, Peggy, daughter, Martha, and his son -- most importantly, his son, David, who is watching these proceedings in Iraq.

Judge, congratulations.

(Standing ovation.)

ACTING PRESIDENT MAZIARZ: Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room, and the Senate will stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT MAZIARZ:

There's an immediate meeting of the Senate Rules Committee in the Majority Conference Room, and the Senate will stand at ease pending the return of the Rules Committee report. Thank you.

(Whereupon, the Senate stood at ease at 3:55 p.m.)

(Whereupon, the Senate reconvened at 4:01 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT ROBACH: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of Rules Committee at the desk. I ask that it be read at this time.

ACTING PRESIDENT ROBACH: Reports of standing committees.

The Secretary will read.

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

Senate Print 8482, by Senator Libous, an act to amend the Insurance Law.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT ROBACH: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT ROBACH: Any opposed, nay.

(No response.)

ACTING PRESIDENT ROBACH: The report is accepted.

SENATOR BRUNO: Mr. President.

ACTING PRESIDENT ROBACH: Senator Bruno.

SENATOR BRUNO: Can we have, noncontroversial calendar, the reading of 2267.

ACTING PRESIDENT ROBACH: The Secretary will read.

THE SECRETARY: Calendar Number 2267, by Senator Libous, Senate Print 8482, an act to amend the Insurance Law, in relation to enacting Timothy's Law.

ACTING PRESIDENT ROBACH: Read the last section.

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

ACTING PRESIDENT ROBACH: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT ROBACH: Senator Bruno, to explain your vote.

SENATOR BRUNO: Mr. President and colleagues, the piece of legislation that is before us is one of the most important pieces of legislation that we will act on this year and into next year that will affect hundreds of thousands of people's lives. This is the bill, Timothy's Law, that creates parity, parity for mental illnesses, as they are described, with physical ailments.

It's long overdue. We've been working on this diligently for twenty-some years, very difficult to get to a responsible and reasonable place. But we've done it, with the leadership of our sponsor, Tom Libous, with the leadership of our chair of Mental Health, Tom Morahan, and with the leadership of Tom O'Clair and the advocates, many of whom

you see here with us today.

Without Tom, without your support, we wouldn't have agreement with the Assembly and hopefully with the Executive. I have talked to the Governor again since we had our press conference. The Governor will review this bill.

I thought that the Governor was not sure as to what happened in the last day or two when we were here in June, because you were working, as you remember, into the early hours of the morning to get agreement. We have agreement. And the Governor will review the bill; the Assembly said they will pass it.

Tom, who's here with us -- we have Tom, Tom Libous; Tom O'Clair; Tom Morahan -- has, with his associates, spent hours and hours and hours over the years, in the halls, on weekends, everywhere, to help make this happen. And as I've said, it is overdue. We're just happy and proud.

And Tom, Senator Tom Duane, who was there in the forefront, helping get agreement.

Getting agreement on something like this -- which many people see as

counterproductive by driving people with escalating rates, potentially, to the uninsured. And that's the big open question. We believe that we have a compromise here that works for everybody and that gives the help that people need.

If you have a mental disability, it's the same as having a physical disability. And all that we're trying to do now is create equality so that people can enjoy a quality of life as people deserve.

Thank you, Mr. President.

ACTING PRESIDENT WINNER: Thank you, Senator Bruno.

Senator Libous, to explain his vote.

SENATOR LIBOUS: Thank you, Mr. President.

Mr. President and my colleagues, on March 16, 2001, Timothy O'Clair took his life. Timothy O'Clair suffered from oppositional defiant disorder, major depression, and severe attention deficit disorder.

Timothy O'Clair is one of thousands of New Yorkers who suffer from mental

illness -- who suffered from mental illness and who presently today suffer from mental illness. They have not had the same kind of coverage as other individuals who are able to get care, and in many cases the outcome is a tragic one, as in the case of Timothy's.

Over the past seven or eight years, when I first chaired the Committee on Mental Health and began working on this bill with the advocates, with Tom and Donna O'Clair, the parents of Timothy, we tried to strike a balance, one that would help people with mental illness in the State of New York, one that would be more comprehensive than maybe what other states have had. And certainly during that time we had our difficulties, we had our disagreements.

But on the floor today, Mr. President, is legislation that is long overdue, that has come because of the leadership of the O'Clairs, the leadership of the advocates, and certainly the help of Senator Bruno and certainly colleagues like Chairman Morahan of the Mental Health Committee and all of us in this room. And I

know the persistency of Senator Duane, who had been working and even was very helpful in the negotiations toward the end.

What we now have in New York State is mental health parity, mental health parity in a bill that is called Timothy's Law to honor Timothy O'Clair, to give people with biological mental health illnesses the opportunity to receive care.

And what our bill does, Mr. President, which goes further than many of the other states, is that it provides coverage for children under 18 years of age with serious causes of attention deficit disorder, disruptive behavior disorders, and a whole host of mental illnesses that are outlined in this bill.

Now, there has been a lot of discussion throughout the history of trying to come to this great compromise to put this legislation together and talk about what are the costs. Well, unfortunately, we had in this case a very, very severe cost. We had the loss of the life of a young man, who was not given an opportunity because we did not

have sufficient care and coverage for care that he needed in this state.

So I would hope that those who continue to worry about the cost could only look back on what happened to Timothy O'Clair and use his short life as kind of a model, as guidance for those who are afflicted with mental illness, for those young people, as Tim was, or adults who need the care, who need the coverage, who need an opportunity to live a normal life.

Now, mental health has had a stigma in this state for a number of years, and it continues to do that. But I hope, Mr. President, that this legislation will begin the first step of taking that stigma away.

So to all of my colleagues here who have been persistent -- and I know at times it's been a difficult thing to come to a compromise. But we've come to a great balance, a balance with our colleagues in the Assembly, and come together with a piece of legislation that is better than almost every other state, better than what other states

have provided, and an opportunity here now to protect those lives of people with mental illness.

So I'm very pleased and very proud to stand before you today and say that I vote aye on this legislation that will, I hope, in the name of Timothy O'Clair, begin to pull away the horrible stigma of mental illness and give opportunity and hope for folks who have an illness that's very similar to any other sickness or illness that we have in society today.

ACTING PRESIDENT WINNER: Senator Libous will be recorded in the affirmative.

Senator Morahan, to explain his vote.

SENATOR MORAHAN: Thank you, Mr. President.

You know, as we reflect today on this accomplishment of teams working together -- teams of staff, both sides of the aisle, our Assembly colleagues, Senator Libous, who led this fight for years -- we can't lose track of those who fought early on as pioneers for some recognition of the needs

of the mental health community.

I speak of Senator Padavan, who back in the '70s passed legislation in this house that would force insurance companies to provide riders.

At one time in this state you could not again get the insurance if you wanted to pay for insurance. You had to pay everything out-of-pocket. And for those pioneers, those who worked so hard for mental health in the past, they ought to be applauded today as well in this fight to get this parity bill to the floor.

And while we had parity bills on this floor before and we voted on them, we didn't have the agreement of the advocates or the Assembly. One of my credos was we must move this forward. And to do that, we have to look at our own positions and see what it is about our positions that we could adjust or modify. And I think all parties have done that.

Our first concern about small business, I think we've addressed that in a very unique, creative way. And that's what it

took. The advocates, as well, reviewed their position and moved towards the center, if you will. As did the Assembly, in the waning hours in June when this session was coming to a close.

And what we have before us today is a unibill which outlines all of our Assembly sponsors, our colleagues in the other house, and our colleagues in the Senate who will support this legislation today.

So as chairman of the Mental Health Committee, I think this year, 2006, has been a banner year for the mental health community, a banner year for the Senate and the Assembly in the innovative and broad legislation that we brought to the table this year on rate bills for housing, funding, in the joint conference committees for mental health. And now this -- frankly, the cherry on top of the cake -- something that was fought so hard and so long by so many came to us today in a bill that all can support.

So I'm delighted to also cast my vote and give great commendations to Senator Libous for staying the course, to Senator

Bruno for his leadership and willingness to listen and understand the need and allow us to move this bill to a point where, when the Assembly comes back, it will be passed. When it gets to the Governor, we pray it will be signed.

Thank you. I cast my vote in the affirmative. Thank you, Mr. President.

ACTING PRESIDENT WINNER: Senator Morahan will be recorded in the affirmative.

Senator Robach, to explain his vote.

SENATOR ROBACH: Yes, Mr. President. Let me briefly say I'm happy to rise and enthusiastically cast my vote in the affirmative.

Certainly in so many ways I think -- you know, someone mentioned the word "stigma" attached to mental health. I'm glad to say those days are over. These are people, that -- our coworkers, our family members, people in our community.

And I think if you surveyed everyone -- certainly I worked with a fairly young woman at one time, tremendously

successful, who because of depression really her life got turned upside down and went to depths that no one could imagine. And only with a lot of people advocating, steering, getting the right treatment modalities, the right medication, really brought her life back. Luckily she had the resources and people pulling for her. We should make that the case for everyone today.

The advocates have worked very hard on this -- I want to applaud them -- whether it's been here in Albany, in Rochester, where people are very active. I think we responded to that call. We tried to make the pledge that by the end of this session, this two-year session, not a one-house bill but a two-house bill, and we did that.

This is very important. These things that will be covered, unlike even 10, 15, 20 years ago, aren't really strange. We now know science, medical technology has advanced. Depression, bipolar disorder, schizophrenia, things of those nature really can get treated successfully, almost without exception these days.

It is equally as important that we are healthy in our mind as in our body. And from a point of parity, equity, think of it -- you have a child who's physically very healthy, you have living next door to you someone who let's say is very active in sports, is constantly getting injured. Every single thing they do is covered, but your child, your loved one historically may not have been included in that.

I think as we look at how we make New Yorkers holistically whole and healthy, this is a great step in the right direction. And I applaud all my colleagues for coming together and getting this done in response to the people who need it and to make our whole community and state much healthier. I think in the long run, while there will always be some attached cost, it will not only save a lot of emotional loss but it will even save a financial gain, if you will, from productivity and happier lives.

And again, very happy to cast my vote in the affirmative.

ACTING PRESIDENT WINNER: Senator

Robach will be recorded in the affirmative.

Senator DeFrancisco, to explain his vote.

SENATOR DeFRANCISCO: Yes, I vote in the affirmative and rise to congratulate all those that were a part of this historic legislation.

I don't think there's any person in this chambers who doesn't have someone, whether it's a family member or a close friend, that's been affected by mental illness.

And, you know, it's been difficult over the years, as Tom O'Clair has been coming here, to kind of justify why it's really taken this long. But there was a balancing act that had to be taken place so that by providing this type of insurance we weren't creating insurance policies that were so expensive that others were becoming uninsured as a result.

And I think we've struck that balance by protecting small businesses and doing a study to make sure that we take care of those additional costs, if any.

On a lighter note, now Tom will

have other places he can go rather than the Senate chambers. And also the other Tom, Tom Duane, can now speak germanely on issues, rather than go into other issues for this particular purpose.

But congratulations to everyone. It's a great day for those mental health advocates and those suffering from mental illnesses.

ACTING PRESIDENT WINNER: Senator DeFrancisco will be recorded in the affirmative.

Senator Duane for a rebuttal and to explain his vote.

SENATOR DUANE: Thank you very much, Mr. President.

I'm very happy to be here today. And as I suspected and is being proven, I guess everyone is very happy that I'm here today to speak on Timothy's Law when we're speaking on Timothy's Law.

(Laughter.)

SENATOR DUANE: And actually, you know, our actions today are so much greater than words could ever be. And it's a huge

step. A huge step. But, you know, it's Tom: Next couple of years we have to do addiction, substance abuse. But -- but -- for today, this is great. Absolutely great.

I want to thank, well, everyone. Both sides, both houses. I want to thank Senator Bruno for a whole host of things, including and especially having an open door on this issue. And to all the Toms -- Senator Libous, Senator Morahan, Tom -- congratulations.

And also, you know, the leaders on my side and everyone that backed me up in my work here, and also all of the members on the other side for, you know, letting me barge into your offices and talk and talk and talk about this, thank you.

Also the advocates, just an amazing, an amazing, amazing job. Really. Your hard work has really paid off for all New Yorkers.

And there are very few moments in my career here in the State Senate that will compare to what's happening here today. And it's really because of everybody in this

chamber.

So from the bottom of my heart, thank you. I vote yes.

(Applause.)

ACTING PRESIDENT WINNER: Senator Duane will be recorded in the affirmative.

Senator Schneiderman, to explain his vote.

SENATOR SCHNEIDERMAN: Thank you. Thank you. I am pleased that we're doing this. It is extraordinarily important, as Senator Duane has said.

I am truly sorry that it took us so long. I remember standing at the end of another session and looking at Mr. O'Clair, who was weeping, and just -- all I could think to say was I'm sorry, I'm sorry we didn't get this done.

And, you know, there's an expression -- I'm glad everyone is enthusiastic and in support of this this week. But the expression is "Success has a thousand mothers and failure is an orphan."

Throughout this period of time when we've been trying to pass this bill -- and

it's been very difficult to pass in this house -- I do want to remind my colleagues that sometimes you need to be a squeaky wheel. And having been involved in some of these debates over whether or not Senator Duane was speaking within the germaneness rule or not -- which is sometimes, I think, applied on a somewhat elastic basis -- that everyone wasn't always so enthusiastic.

And Senator Duane I think deserves a special thanks from all of us, because in this Legislature we get criticized a lot for not being willing to shake things up, not being willing to stand up to the power structures that exist. His persistence, his consistency, and his compassion on this issue are why we are here today passing the bill.

And sometimes, my colleagues on the other side of the aisle, justice is more important than germaneness, and sometimes human life is more important than germaneness. And this victory today is a victory for consistency, persistence and passion on the part of Senator Duane, as well as for all the others who have helped. But we really do owe

him a special debt of gratitude.

And more than anyone else, to the O'Clairs, for taking your tragedy and turning it into a life-saving victory for people all across our state. Thank you, thank you, and thank you.

I vote in the affirmative, Mr. President.

ACTING PRESIDENT WINNER: Senator Schneiderman will be recorded in the affirmative.

Senator Padavan, to explain his vote.

SENATOR PADAVAN: Thank you, Mr. President.

There are five Senators currently sitting in this chamber who were here in 1977 when a major piece of legislation was adopted in this house and in the Assembly and became law in January of '78.

Prior to that time, mental health coverage was not available in any group plan no matter what you wanted to do. You could pay all the premiums you wanted to pay, if you could afford it, and it wasn't there to be

had.

That legislation mandated that all insurance carriers, all the group plans, Blue Cross and so on, must provide a rider, must make it available, of course with the additional premiums that it would involve.

The arguments against it then, that legislation, were very similar to the ones we've been hearing about the bill before us. And I remember hearings we had across the street, and the Business Council and others sitting there and telling us that the sky was going to fall, businesses were going to fail, insurance costs would skyrocket. None of that happened. None of that happened.

The argument made by the advocates at the time were that people who have a mental disability are not good employees. They have high absenteeism. They have health problems even beyond their mental illness. And treating them makes good sense and is good business. And even if a family member -- not they themselves, but a family member has a mental illness, you're worried about them -- your wife, your children -- and you're not a

good employee. And in the long run, it's good business to take care of this disability in any way you can.

The same advocates then are here today, in many respects, NAMI among them, and others, who fought then for that legislation.

Now, of course, we have Timothy's dad, who led the way here, as others have said more eloquently than I can, and for such a long period of time, with such passion, that enable us to take this next giant step forward.

And it's a tribute to Tom Libous and the chairman of the Mental Health Committee, Tom Morahan, and everyone else in both houses who brought us to this point in time.

I vote aye, Mr. President.

ACTING PRESIDENT WINNER: Senator Padavan will be recorded in the affirmative.

Senator Seward, to explain his vote.

SENATOR SEWARD: Thank you, Mr. President. I rise to explain my vote.

First of all, I want to

congratulate Senator Libous, Senator Morahan, Senator Bruno and all those both in the gallery and here on the floor who have worked so hard, many countless hours, in developing this compromise piece of legislation that is before us today.

There's no question in my mind that one's mental health is very closely aligned with one's overall sense of health and wellness, no question that the two are tied together.

And whenever, of course, we address that question of what is appropriately covered in health insurance policies in New York State, the question of the costs associated with those benefits always has to be considered. Because as we all know, as the price of health insurance goes up, the number of uninsured also go up in terms of those not being able to afford the premium.

So there is, as others have alluded to today, there is in fact a balancing act. And this legislation before us does address many of those concerns and does strike a balance.

Now, I continue to have some concerns about the bill before us, what's going to happen with those businesses, 51 to 100 or 200, those that have no other options in terms of providing health insurance for their employees. I have concerns about the source of funding for those under 50 in terms of covering their costs.

However, I'm going to support this legislation because it's a two-year bill, a two-year experiment. There's a study that's required under the bill. I think in two years this Legislature and all of us, from the advocates to legislators, all those will be able to assess the impact of the bill. And I certainly hope and pray that it will be a positive impact, and not only particularly for those who need these services but for all New Yorkers, employees, employers, and their families alike.

I also will support the bill because Assemblyman Grannis, my counterpart in the Assembly, and I have agreed on the language that would in fact set up a mandate commission going forward that will give us a

cost/benefit analysis of mandates going forward so that we will know going in what the true costs and benefits are of any proposed mandates.

So with those thoughts, Mr. President, I congratulate all those who have worked so hard on this bill. I have some reservations as chair of the Insurance Committee, but I stand here to say that I support this bill.

ACTING PRESIDENT WINNER: Senator Seward will be recorded in the affirmative.

Senator Little, to explain her vote.

SENATOR LITTLE: Thank you, Mr. President.

I rise too to support this bill and to congratulate Senator Bruno, Senators Libous and Morahan for bringing this bill to the floor and for being able to resolve the differences that we have here.

Certainly this is a very needed piece of legislation, but I also think that it's among one of the most compassionate pieces of legislation that we have passed.

Maybe the second most compassionate, as Senator Padavan pointed out.

In my years in the Legislature, some of the most heartbreaking meetings that I've had are meetings with parents of children with mental illness. They feel so helpless. It's such an unknown disease. There is no pill, there is no vaccination for this. And having to fight with insurance companies to get the kind of treatment that their children need is something that they shouldn't have to endure.

So I support this bill. I thank the advocates. It's their persistence and patience and working to negotiate that has brought this bill to the floor. And I think that we can all be very proud of this day. I vote aye.

ACTING PRESIDENT WINNER: Senator Little will be recorded in the affirmative.

Senator Diaz, to explain his vote.

SENATOR DIAZ: Thank you, Mr. President.

I came to this chamber in 2002. And since I came here, every single session I

saw Timothy's parents in the hallway handing out literature, and saw Senator Thomas Duane standing here, especially in this past session. And Senator Duane used to stand up on unrelated bills, but at the end he would always say: "When are we going to pass Timothy's Law?" He would push it.

So I am the ranking Minority member in the Mental Health Committee, and I'm proud and honored to work with Senator Morahan. And I have learned a lot with him and with the members of committee.

But to the parents of Timothy, and to Thomas Duane, I'm going to give you a biblical story that I compare with your tenacity, your dedication, and your persistence in getting something through.

The Bible says that there were a judge, a very, very bad judge, and that there was an old woman who happens to be a widow. And that old woman, according to the Bible, used to go in front of the judge asking for justice. And the judge refused to see her. And the lady, according to the Bible, day after day she would go in front of the door of

the judge: "Make me justice, make me justice, make me justice." And the judge don't want to make justice to that lady.

But the Bible says that because of the lady's tenacity and insistence and the constant knocking on the judge's door, the judge said, "This lady got me already upset. You know, I'm already losing my control. So before I do something bad, let me do some justice to this lady." And the lady got what she wanted because of her tenacity and dedication.

And I'm using that because I mean I think that even Reverend Al Sharpton took from that biblical passage the reading of "No justice, no peace."

And you, the relatives of Timothy, and you, Senator Thomas Duane -- and people know that you and I don't really agree in too many things, but today I tip my hat to you.

And I congratulate you, I congratulate all the members of this chamber, I congratulate Timothy's Law. You really, really made us move. It was you and you that made us move. And we're moving today, we're

glad, but congratulations to you. And, Senator Duane, I'm proud of you.

Thank you. I'm voting yes.

ACTING PRESIDENT WINNER: Thank you, Senator.

Senator Diaz will be recorded in the affirmative.

Senator Krueger.

SENATOR LIZ KRUEGER: Thank you, Mr. President. On the bill.

I'm certainly glad to be able to be here today to vote for this bill. And many people have referenced the hard work of the O'Clair family, of my colleague Senator Tom Duane, of advocates all over the state.

But I also feel like I'm a little bit in a reality-check zone here. Senator Padavan mentioned that in 1978 this house started to talk about the realities of mental health as a real issue. And in 2006, apparently we're still debating that we've finally concluded that mental health is a real type of health problem.

And yes, we're glad we're here and you've worked so hard, but you've been angry.

And I have to tell you I still feel angry even though we're passing this bill, because it's not the bill we all really wanted. And it's a bill that covers some people if they have insurance. But I'm angry that 15 percent of New Yorkers don't have health insurance, so this won't help them.

And I'm angry that we still haven't passed a bill that would require health insurance companies to justify their premium increases, because I hear from small businesses that they're concerned about their increased costs. They should be concerned. We all should be concerned. But we also still have not moved legislation that would require health insurance companies to explain their premium costs.

We still, today, are not moving legislation where other advocates have been wandering through the halls, AARP, requiring us to force the pharmaceutical companies to document their costs to us for prescription drugs, to disclose the amount of money they're spending in gifts to allow themselves to increase their profit margins, increasing the

cost of healthcare perhaps not while increasing healthcare delivery.

So this is a good day, and yet I find myself angry because we should be debating universal coverage. We shouldn't be spending years and years and years negotiating subsections of who might get covered by some piece of insurance for their specific healthcare needs. The State of New York should move a universal model of healthcare.

And if we started talking about mental health coverage in '78 and we're passing a bill in 2006, I'm very worried about our timeline expectations for a serious discussion about what we do to ensure that all New Yorkers have equal access to healthcare when they need it, regardless of the type of illness they're suffering from.

So I vote yes, and it is a good day, and thank you for your hard work. But we have not finished the assignment or come anywhere near our responsibilities as legislators. Thank you very much.

ACTING PRESIDENT WINNER: Senator Krueger will be recorded in the affirmative.

Senator Spano, to explain his vote.

SENATOR SPANO: Thank you, Mr. President.

Let me join with our colleagues who have expressed their thanks and congratulations to the chair of the Mental Health Committee, to Tom Morahan; to our leader, Joe Bruno; and to so many others who have made this a reality today.

You know, when I chaired the Mental Health Committee, we learned very rapidly about the stigmas impacting people who suffer mental illness and about how mental illness can impact any one of our families regardless of our socioeconomic class at any given time.

And I want to make sure that we acknowledge the work of Senator Tom Libous, who I personally watched persevere for hours and hours until we made this bill a reality.

And I feel sorry for the fact that Senator Krueger is angry. I think rather than being angry, we should look to the fact that this is landmark legislation, this is the most significant legislation that we've passed this year, the most significant legislation in the

area of mental health since we passed the Community Reinvestment Act that substantially changed the way we built the community-based system of care for people who suffer from mental illness, that we have legislation here that will impact not only the adult population but our kids that are so often troubled by mental illness.

And for years we know that people who had mental illness did not have voices very often in the state capital. And let me say to Tom O'Clair, you gave voice to people who very often were not heard in the halls of the state capital in Albany, and your persistence should be credited a great deal for the fact that you were here rather than recoiling into your own world, which no one would have blamed you for doing after going through the tragedy that you went through. You decided to be here and become the lobbyist that you weren't called, but the lobbyist that was a true effective voice giving voice to people across this state who on a daily basis could not have their voices heard.

And I want to just say

congratulations to Tom O'Clair and say that we are so happy to see this day, that we see Timothy's Law passed by the Senate and will eventually become law very shortly in this state.

I vote aye. Thank you.

ACTING PRESIDENT WINNER: Senator Spano will be recorded in the affirmative.

Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Thank you, Mr. President.

I too rise to congratulate those who have been fighting for years to bring this law into fruition. And thank God we're here, and thank God we've accomplished this. This is a victory, not a point to be saddened, not a point to be worried.

Yeah, there's more to do. And we'll do it, and we'll move ahead. But let's take the moment and say this is good. Compromise has worked. The system has worked. Both sides sat down, hammered out an agreement, finally, and agreed to compromise. Not a dirty word. Not something to be

disparaged.

Some will say it's dysfunctional. Some will say we don't work. Some will say it's not there. But it did work. When both sides realized that they had to compromise to end the desperation of those families who have members with mental illness, this bill came to fruition. And they can go home and say now we've got a place to go, we've got somebody and something that will help us. And that's important.

Is it everything everybody wants? No. I don't know a single piece of legislation that has passed this chamber or passed both these chambers since I've been here that has been everything the authors wanted. They've always had to compromise. It's a give-and-take process. You take a piece of the pie one time, you come back for the next slice. And you come back for the next slice until you get what you need, until you get everything you want.

This, I look upon it as a first step. And I think we should all take that attitude. It's a first step. We'll see how

it works, we'll improve it, we'll make it better.

There's a lot of other legislation out there that's controversial, that there are opposite sides and people butting heads on, and fingers are being pointed. Compromise is the name of this business. When people of good faith come together and respect each others' positions and are willing to concede that the other side may have a point and are willing to give that point some recognition, then you put together a good piece of legislation.

And I think we've done that here, and I think we should be proud of it. And I urge the Governor to sign it. I'm sure the Assembly will pass it, and I urge the Governor to read it and sign it. It's necessary. And if he doesn't, we should come back and deal with that at the appropriate time.

Right now I think we should be pleased. And I think the family and the advocates should be grateful and thankful. I know I am, for their work and their effort and their leadership. And I'm thankful for the

work of my colleagues -- Senator Libous, Senator Morahan, Senator Bruno, and all of my colleagues on both sides of the aisle who have worked for this particular piece of legislation. Thank you. This is a good job and a job well done. Let's move ahead now.

I vote aye.

ACTING PRESIDENT WINNER: Senator Marcellino will be recorded in the affirmative.

Senator Maziarz, to explain his vote.

SENATOR MAZIARZ: Thank you very much, Mr. President.

I too rise in support of this legislation. I want to join the chorus of congratulations to Senator Libous and Senator Morahan.

I've had the occasion on many days here after session was over with, after long sessions were over with, to meet socially with Senator Libous and talk to him and the frustration that he felt about not being able to come to an agreement on this bill was really, I think, something that's a credit to

him and to Senator Morahan and to all the others who worked on this. I congratulate them.

This is a huge step for those in New York who suffer from mental illness. Every one of us, every one of us I'm sure at one time or another has dealt with a family who has come into our district offices or called us on the phone, sometimes in a state of exasperation, as to where to go, what to do, you know, and no place else to turn.

Because of the good work of the advocates, Mr. O'Clair, Tom O'Clair, and all the other advocates and the good work of the members of the Assembly and Senator Libous and Senator Morahan, those people will now have a place to go to for treatment.

So I congratulate them, and I thank all the members of this Legislature. I'm absolutely certain this is going to pass unanimously here today, as well it should.

Thank you, Mr. President.

ACTING PRESIDENT WINNER: Senator Maziarz will be recorded in the affirmative.

Senator Connor, to explain his

vote.

SENATOR CONNOR: Thank you, Mr. President.

You know, Senator Padavan pointed out the great leap forward in 1978, when this Legislature provided that insurance to cover mental illness treatment must be made available. And here we are today.

And lest we think it's all been nearly three decades of progress, I would point out that the number of New Yorkers who had health insurance in 1978, percentagewise, was I am positive far greater than the percentage than enjoy health insurance today.

Simple statistics from that era would show that, I think, today the New York workforce, the percentage of the New York workforce, for example, that's unionized is half of what it was then, or less than half of what it was then. We didn't have Wal-Marts then. We didn't have big box stores. We didn't have these corporations that are national or international in scope that pay minimum wage or a little bit over that and provide no benefits. We didn't have Starbucks

then.

So while I'm delighted that we're doing this legislation today, that we're passing Timothy's Law -- and it is a compromise, it's not everything we wanted -- I would point out that we have a much bigger problem if we're going to extend these kind of benefits to all New Yorkers.

And that problem is how are we going to provide affordable health insurance coverage to all New Yorkers, and are we not ready to mandate that employers of large numbers of employees ought to lift their fair share of this burden in terms of providing health insurance to all of its employees.

That said, I'm glad we're passing this. I don't get angry at the slow pace of progress around here, because if I did, in 28 years that anger would have probably eaten me alive -- with all due respect to Senator Liz Krueger, who's been here a much shorter time. But I do get frustrated, and I do wish the pace of progress in this chamber were a little swifter than it's been.

And I do congratulate, though, the

sponsor and the Majority Leader and Senator Morahan for their work on this.

My friend and colleague Senator Duane, I thank him for not letting a day go by in this chamber without reminding us all that Timothy's Law was something that we needed to do to benefit New York's families, New York's young people, and all New Yorkers who enjoy this benefit.

And to Tom O'Clair, I admire and respect the fact that your loss, enormous loss and pain was channelled in such a positive direction to lead to something that will help other New Yorkers to hopefully prevent tragedies and get the services they need.

And to the other advocates whose persistence we respect, I thank you for your fine work and for keeping the pressure on, because that's what does get change in this chamber, keeping that pressure on and not forgetting we are here to do for the citizens of New York and to provide for their needs.

So, Mr. President, I intend to vote for this. But I do hope in the coming year or years the pace of progress, of progressive

legislation in this chamber picks up and gets us to where we really, really need to be. I don't have another three decades to wait around this chamber for the next big leap forward. Or, I don't know, my grandfather lived to 105, maybe I do, but I don't think I'm going to spend them in this chamber.

So I vote aye, Mr. President.

ACTING PRESIDENT WINNER: Senator Connor will be recorded in the affirmative.

Senator Nozzolio, to explain his vote.

SENATOR NOZZOLIO: Thank you, Mr. President.

I rise to add to the chorus of those who are supporting this excellent legislation, but only wish to focus my remarks on a special thanks, thanks to the advocates, not just in Albany but throughout the entire state, who networked together, who continually pressed the cause, who instructed myself and other legislators about the real need for this legislation. And I wish to thank them, because it's a victory for those advocates, and thank them for such strident support of

this legislation.

I only wish to say that we also will fight hard on other issues that affect the mentally ill, and particularly as the mentally ill are placed in our prison system. I know many in this house as well as the Assembly wish to ensure that we are also taking important strides in that endeavor.

Again, thank you. It is an excellent piece of legislation, one that I fully support. And thank you, Mr. President, for the opportunity to explain my vote. I vote aye.

ACTING PRESIDENT WINNER: Senator Nozzolio will be recorded in the affirmative.

Announce the results.

THE SECRETARY: Ayes, 55. Nays, 0.

ACTING PRESIDENT WINNER: The bill is passed.

(Extended applause.)

ACTING PRESIDENT WINNER: Senator Fuschillo, that completes the noncontroversial calendar.

SENATOR FUSCHILLO: Please

recognize Senator Little.

ACTING PRESIDENT WINNER: Senator Little. Motion of Senator Little.

SENATOR LITTLE: Thank you, Mr. President.

I wish to call up Senator Wright's bill, Print Number 4605A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT WINNER: The Secretary will read.

THE SECRETARY: Calendar Number 2149, by Senator Wright, Senate Print 4605A, an act to amend the Public Service Law.

SENATOR LITTLE: Mr. President, I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT WINNER: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

SENATOR LITTLE: Mr. President, I now move to recommit the bill to the Committee on Rules.

ACTING PRESIDENT WINNER: So

ordered.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT WINNER: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Health Committee in the Majority Conference Room.

ACTING PRESIDENT WINNER: The Senate will stand at ease until the return of the Health Committee from the Majority Conference Room.

(Whereupon, the Senate stood at ease at 4:56 p.m.)

(Whereupon, the Senate reconvened at 5:03 p.m.)

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

ACTING PRESIDENT LITTLE: Thank you. The Finance Committee will meet immediately in the Majority Conference Room.

(Whereupon, the Senate stood at

ease at 5:04 p.m.)

(Whereupon, the Senate reconvened at 5:19 p.m.)

ACTING PRESIDENT LITTLE: Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing committees, there's a report of the Finance Committee at the desk.

I'd ask that that be read with the list of individuals who did not have to appear. We'll read that list first.

ACTING PRESIDENT LITTLE: Thank you. Reports of standing committees. The Secretary will read the report of the Finance Committee.

SENATOR SKELOS: Excuse me, Madam President. We'll read the list, and then any individual who wishes to vote against any one of those individuals, they can stand up and so indicate.

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

THE SECRETARY: Senator Johnson, from the Committee on Finance, reports the

following nominations.

As director of the State of New York Mortgage Agency, Eileen Mildenberger, of New York City.

As directors of the State of New York Municipal Bond Bank Agency, Kenneth M. Bialo, of Larchmont, and Michael J. Townsend, Esquire, of Fairport.

As a member of the New York Job Development Authority, Adam Barsky, of New York City.

As an alternate nonvoting member of the Metropolitan Transportation Authority, Norman E. Brown, of Brooklyn.

As a member of the New York State Bridge Authority, Robert P. Carter, of Poughkeepsie.

As members of the Central New York Regional Transportation Authority, Deraux L. Branch, of Syracuse, and Vincent A. O'Neil, Esquire, of Syracuse.

As a member of the Niagara Frontier Transportation Authority, Thomas H. Burton, of Clarence.

As a member of the Ogdensburg

Bridge and Port Authority, William D. Nelson, of Ogdensburg.

As a member of the Port of Oswego Authority, Christopher C. Dain, of Oswego.

As a member of the New York State Thruway Authority, Frederick M. Howard, of Valley Falls.

As a member of the Board of Trustees of the State University of New York College of Environmental Science and Forestry, William L. McGarry, Jr., of Fayetteville.

As a member of the Small Business Advisory Board, Frank S. Falatyn, of Hurley.

As members of the State Board of Real Property Services, George Herren, of Canandaigua, and Michael Joseph, Jr., of Marathon.

As a member of the State Environmental Board, Gregory Harden, of McConnellsville.

As a member of the Albany Pine Bush Preserve Commission, John K. Brust, of Central Bridge.

As a member of the Firefighting and Code Enforcement Personnel Standards and

Education Commission, Kevin Shamus Malley, of the Bronx.

As a member of the Genesee State Park, Recreation and Historic Preservation Commission, Margaretha Buerman, of Webster.

As members of the Long Island State Park, Recreation and Historic Preservation Commission, Lawrence T. Mahon, of Syosset, and Lisa Dewald Stoll, of Oyster Bay.

As members of the Saratoga-Capital District State Park, Recreation and Historic Preservation Commission, David Golub, of Schenectady, and Karl Jay Sleight, Esquire, of Saratoga Springs.

As members of the Republic Airport Commission, Philip Acinapuro, of North Massapequa; Vincent A. Bologna, Jr., of West Babylon, and Joan Flaumenbaum, of Farmingdale.

As a member of the Medical Advisory Committee, Mary Kathryn Lashomb, of Malone.

As members of the Board of Directors of the New York Convention Center Operating Corporation, Christine Ferer, of New York City; Betty Levin, of New York City; Edward J. Malloy, of New York City; and

Jeffrey D. Stewart, of New York City.

As a member of the State Council on the Arts, Amy Donna Newman, of New York City.

As a member of the Citizens Policy and Complaint Review Council, Brian W. Cotter, of Rensselaer.

As a member of the State Fire Prevention and Building Code Council, Robert Hankin, of Poughkeepsie.

As members of the State Hospital Review and Planning Council, Michael H. Barnett, Esquire, of New York City; Sister Joseph Mary Brecanier, of Albany; Thomas E. Holt, of Jamestown; and Richard Nelson Rosenthal, M.D., of New York City.

As members of the Council on Human Blood and Transfusion Services, William Allen Fricke, M.D., of Rochester, and Donna Skerrett, M.D., of Mount Vernon.

As a member of the Mental Health Services Council, Steven J. Miccio, of Fishkill.

As a member of the Public Health Council, Joseph A. Cimono, of North Tarrytown.

As commissioners of the State

Insurance Fund, Donald T. DeCarlo, Esquire, of Southold; William A. O'Loughlin, Jr., of Williamsville; and Jane A. Rees-Halbritter, Jr., of Rome.

As a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at St. Albans, Angelo Lomonaco, of Elmont.

As members of the Board of Visitors of the Binghamton Psychiatric Center, Gerald J. Buckley, of Binghamton, and Joyce Gioia, of Binghamton.

As a member of the Capital District Psychiatric Center, Friederike Barker, of Albany.

As a member of the Board of Visitors of the Creedmoor Psychiatric Center, Christine Spigner, of Jamaica.

As a member of the Board of Visitors of the Elmira Psychiatric Center, Judith H. Phillips, of Watkins Glen.

As a member of the Board of Visitors of the Manhattan Psychiatric Center, Agnes A. Violenus, of New York City.

As a member of the Board of

Visitors of the Mohawk Valley Psychiatric Center, Joseph D. Harder, of Marcy.

As members of the Board of Visitors of the New York City Home for Veterans and Their Dependents at Montrose, William T. Mahan, of New York City; Freemont Reif, of Mohegan Lake; and William Rizzuto, of Dobbs Ferry.

As a member of the Board of Visitors of the Rochester Psychiatric Center, George Follett, of Albion.

And as a member of the Board of Visitors of the Western New York Children's Psychiatric Center, Ramon Perez, of Hamburg.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: Move the nominations.

ACTING PRESIDENT LITTLE: The question is on the confirmation of the nominees as read by the Secretary. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed, nay.

SENATOR LIZ KRUEGER: Nay.

ACTING PRESIDENT LITTLE: Senator Krueger will be so recorded.

SENATOR LIZ KRUEGER: Madam President.

ACTING PRESIDENT LITTLE: Yes.

SENATOR LIZ KRUEGER: It's my understanding that I should for the record clarify that I am voting yes on the nominees for the Board of Visitors positions, but I am voting no on all of the other nominees without hopefully needing to read through.

We got notice of these people yesterday; I believe our counsel got it at 4:00 o'clock on Wednesday. I feel that the Governor had the opportunity to give us far more time to review the nominees. We get three days, at least, on bills. We should have had at least three days to review 61 nominees.

So no on every one on that basis except for the Board of Visitors, who were provided to us earlier.

Thank you.

ACTING PRESIDENT LITTLE: Thank

you. The record will so reflect that, Senator Krueger.

Senator Connor.

SENATOR CONNOR: Yes, Madam President. I would like to be recorded as voting no on the reappointment and new appointment to the Workers' Compensation Board, those two nominees.

And I would also just like to, while I'm voting yes for the other nominees, congratulate the appointment of Norman Brown, a constituent of mine from the Machinists Union. And I'm happy to vote yes on his appointment. Thank you.

ACTING PRESIDENT LITTLE: Thank you. You will be so recorded.

Senator Skelos.

SENATOR SKELOS: If I could interrupt for just one moment, I want to point out that the first three appointments that had to appear are not technically before the house at this time, the Workers' Compensation Board. It's all the nonappearances.

So if anybody wishes to vote against any one of those, they should do that.

And then we'll take up the three other nominees.

ACTING PRESIDENT LITTLE: Thank you, Senator Skelos.

The nominees are hereby confirmed.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, could we just have a moment. I think there's a little confusion about procedure.

ACTING PRESIDENT LITTLE: Thank you. Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President. I wish to vote no on the nominee for the director of the State of New York Mortgage Agency.

ACTING PRESIDENT LITTLE: Thank you. The record will so reflect that.

Senator Savino.

SENATOR SAVINO: Yes, Madam President, I also would like the record to reflect that I am voting no on the appointment of Eileen Mildenberger as director of the State of New York Mortgage Agency. But yes on all the other nominations.

ACTING PRESIDENT LITTLE: Thank you. The record will so reflect that, Senator Savino.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I echo Senator Krueger's concern about the Governor's -- the lateness with which he passed these up. It's not the fault of any of the nominees or anyone in this house. It is unfortunate, but I will also be voting no for the nominee for the State Mortgage Agency.

There are other good appointments here, and I'm sorry we didn't have more time to consider and evaluate them. Jeffrey Stewart, in particular, nominated and now confirmed to the New York Convention Center Operating Corporation, is an excellent nominee whom I've known for many years.

I wish we did have more time to deal with this, and that's something that on day one we'll change. Thank you.

ACTING PRESIDENT LITTLE: Thank you. The record will so reflect your negative

vote.

Senator Gonzalez.

SENATOR GONZALEZ: Yes, I'd like to vote in the negative on the director of the New York State Mortgage Agency, Eileen Mildenberger, in the negative on that one.

ACTING PRESIDENT LITTLE: Thank you. The record will so reflect that, Senator.

The nominees as read by the Secretary are hereby confirmed.

The Secretary will read.

THE SECRETARY: As executive director of the New York State Office of Science, Technology and Academic Research, Michael J. Relyea, Esquire, of Clifton Park.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: Move the nomination.

ACTING PRESIDENT LITTLE: Thank you.

Senator Nozzolio.

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

Madam President and my colleagues, I rise in support of Mike Relyea to be the director of NYSTAR.

Congratulations to Mike. In the absence of Senator Alesi, I know that Mike has worked very hard to earn this position. He has been an excellent worker within the legislative process, understands the legislative process and understands in particular, although not now living in Rochester, has a firm knowledge of how the commercialization of science is so important to Rochester and all of Western New York. And that this is an excellent appointment.

And, Mike, you did an excellent job working here in the Senate and at NYSTAR, and now we're very glad to see the Governor recognize your contributions for this important position.

An excellent appointment, Madam President. I fully support it.

ACTING PRESIDENT LITTLE: Thank you.

Senator Maziarz.

SENATOR MAZIARZ: Thank you very

much, Madam President. I too rise to support this nomination of Mike Relyea.

I've known Mike several years now, when he worked for the Governor's office and worked for Senator Alesi here in the Senate. He was always on top of legislation. I know he always had a very special interest in science and technology and all that's going on in New York to create the next generation of jobs, if you will. And I think that Mike will be a great appointment to the office of Science, Technology and Academic Research, and I wholeheartedly support this nomination.

And, Mike, congratulations to you on your next step in your career, and to your family. Thank you.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the confirmation of Michael Relyea as executive director of the New York State Office of Science, Technology and Academic Research. All those in favor say aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE:

Opposed, nay.

(Response of "Nay.")

ACTING PRESIDENT LITTLE: Thank you.

Congratulations to Michael Relyea, who is here today with his wife, Maria, his son, Thomas, and his daughter, Olivia.

And I take special honor in congratulating him, since Michael originally is from the town of Moriah in my district, in Essex County, and certainly is one of their exemplary citizens. And they'll be happy to hear of this nomination and confirmation of it.

Thank you and congratulations, Michael.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a member of the Workers' Compensation Board, Michael T. Berns, of New York City.

ACTING PRESIDENT LITTLE: Senator Johnson.

SENATOR JOHNSON: Move the

nomination.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the confirmation of Michael T. Burns as a member of the Workers' Compensation Board. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Opposed.

(Response of "Nay.")

ACTING PRESIDENT LITTLE: Michael T. Berns is hereby confirmed as a member of the Workers' Compensation Board, and he is joining us today.

Thank you and congratulations.

(Applause.)

ACTING PRESIDENT LITTLE: The Secretary will read.

THE SECRETARY: As a member of the Workers' Compensation Board, Ellen O. Paprocki, of Baldwinsville.

ACTING PRESIDENT LITTLE: Thank you. Senator Johnson.

SENATOR JOHNSON: Move the

nomination.

ACTING PRESIDENT LITTLE: Thank you.

The question is on the nomination of Ellen O. Paprocki, of Baldwinsville, as a member of the Workers' Compensation Board. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT LITTLE: Those opposed.

(Response of "Nay.")

ACTING PRESIDENT LITTLE: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, I just want to make it clear for the record, since there's a little confusion about procedure, that I'm opposing both of those nominees.

And I would encourage any of my colleagues to stand and clarify that they want to be recorded in the negative on both. There is no recording of a roll call here, so please stand and indicate to the chair your opposition to one or both of the nominees to the Workers' Compensation Board.

ACTING PRESIDENT LITTLE: Senator Savino.

SENATOR SAVINO: Yes, I'd like the record to reflect that I am voting no on the reappointment of Michael T. Berns to the Workers' Compensation Board, and I am also voting no on the new appointment of Ellen O. Paprocki to the Workers' Compensation Board.

ACTING PRESIDENT LITTLE: Thank you. The record will so reflect that.

SENATOR SAVINO: Thank you.

ACTING PRESIDENT LITTLE: Senator Sabini.

SENATOR SABINI: I want the record to reflect that I'm voting no on Mr. Berns -- not from "The Simpsons," but from the Workers' Compensation Board -- and Ms. Paprocki.

ACTING PRESIDENT LITTLE: The record will reflect that.

Senator Breslin.

SENATOR BRESLIN: Thank you, Madam President.

I would also like to be recorded as opposing the nominations of Michael T. Berns

and Ellen Paprocki. It is not a reflection on their abilities, but it's a reflection on the process itself, with the switching of the positions.

ACTING PRESIDENT LITTLE: The record will reflect that.

Senator Smith.

SENATOR MALCOLM SMITH: Yes, thank you, Madam President.

I too want to be recorded in the negative on the reappointment of Michael Berns and also the new appointment of Ellen Paprocki. And similar to Senator Breslin, not with regard to their qualifications, but with regard to the process in terms of their being switched.

ACTING PRESIDENT LITTLE: The record will reflect that.

Senator Krueger.

SENATOR LIZ KRUEGER: I also would like to be recorded in the negative on Michael Berns and Ellen Paprocki, for the same basis that I have voted no on all of the others today. Thank you.

ACTING PRESIDENT LITTLE: The

record will reflect that.

Senator Gonzalez.

SENATOR GONZALEZ: Yes, I'd like the record to reflect my opposition to the reappointment of Michael Berns and the new appointment of Ellen Paprocki. And for stated reasons, as part of the process, in the negative.

ACTING PRESIDENT LITTLE: Thank you. The record will reflect that.

Senator Hassell-Thompson.

SENATOR HASSELL-THOMPSON: Thank you, Madam President.

Please let the record reflect that I too am voting in the negative for Mr. Michael Berns as well as Ms. Paprocki as members of the Workers' Compensation Board.

ACTING PRESIDENT LITTLE: The record will reflect that.

Senator Connor.

SENATOR CONNOR: Thank you, Madam President.

I would like the record to reflect that on the voice vote that we took, I voted no on the reappointment of Michael Berns to

the Workers' Compensation Board and the new appointment of Ellen Paprocki to the Workers' Compensation Board. Thank you.

ACTING PRESIDENT LITTLE: Thank you. The record will reflect that.

Senator Maziarz.

SENATOR MAZIARZ: Madam President, thank you very much.

I rise to stand up and to let the record show that I vote in the affirmative on the reappointment of Michael Berns and Ellen O. Paprocki, both of whom appeared before the Senate Labor Committee, both of whom have served as members of the Workers' Compensation Board with distinction and brought the Workers' Compensation Board, from a technology standpoint, from an agency that was years behind schedule to where it is up-to-date and is processing claims much quicker than they ever have before.

I stand to let the record show that I vote in the affirmative for both appointees. Thank you, Madam President.

ACTING PRESIDENT LITTLE: Thank you, Senator Maziarz.

The nominees, Michael T. Berns and Ellen O. Paprocki, are hereby confirmed as members of the Workers' Compensation Board.

Congratulations to both of you.

(Applause.)

ACTING PRESIDENT LITTLE: Senator Skelos.

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

ACTING PRESIDENT LITTLE: No, there is not, Senator.

SENATOR SKELOS: There being no further business to come before the Senate, I move we stand adjourned until the call of the Majority Leader, intervening days being legislative days.

ACTING PRESIDENT LITTLE: Thank you. On motion, the Senate stands adjourned till the call of the Majority Leader, intervening days being legislative days.

(Whereupon, at 5:39 p.m., the Senate adjourned.)