ALBANY, NEW YORK

May 18, 1994

2:17 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to join me in saying the Pledge of Allegiance.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

In the absence of clergy, I would ask that we all bow our heads in a moment of silence.

(A moment of silence was observed.)

Hearing no objection, the journal -- excuse me. I'm jumping along too soon here. Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 17th. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. The Journal of Monday, May 16th, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions. Senator Farley.

SENATOR FARLEY: I've got a lot of motions here, Mr. President.

On behalf of Senator Cook, on page 27, I offer the following amendments to Calendar Number 880, Senate Print Number 2283-A, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Without objection, so ordered.

SENATOR FARLEY: On behalf of Senator Trunzo, on page 4, I offer the following amendments to Calendar Number 213, Senate Print Number 1374, and I ask that that bill retain its place.

ACTING PRESIDENT KUHL: Without objection, so ordered.

SENATOR FARLEY: On behalf of Senator Seward, on page 5, I offer the following amendments to Calendar Number 269, Senate Print 6749-A, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Without objection, so ordered.

SENATOR FARLEY: On behalf of Senator Levy, on page 30, I offer the following amendments to Calendar Number 912, Senate Print 6993, and I ask that that bill retain its place.

ACTING PRESIDENT KUHL: Without objection, so ordered.

SENATOR FARLEY: On behalf of Senator Seward, on page 28, I offer the following amendments to Calendar Number 889, Senate Print 7508, and I ask that that bill retain its place.

ACTING PRESIDENT KUHL: Without objection, so ordered.

SENATOR FARLEY: On behalf of

Senator Larkin, on page 13, I offer the following amendments to Calendar Number 597, Senate Print 7042, and I ask that that bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Without objection, so ordered.

SENATOR FARLEY: On behalf of Senator Wright, please place a sponsor's star on Calendar 988.

ACTING PRESIDENT KUHL: Sponsor's star on Calendar Number 988.

SENATOR FARLEY: On behalf of Senator Libous, please place a sponsor's star on the following Calendar Numbers: 1035, 1036 and 1038.

ACTING PRESIDENT KUHL: Sponsor's stars are placed on Calendar Numbers 1035, 1036, and 1038.

SENATOR FARLEY: Very good. On behalf of Senator LaValle, please place a sponsor's star on Calendar Number 1067.

ACTING PRESIDENT KUHL: Sponsor's star on Calendar Number 1067.

SENATOR FARLEY: On behalf of Senator Levy, please place a sponsor's star on 911.

ACTING PRESIDENT KUHL: Sponsor's star on 911.

SENATOR FARLEY: On behalf of Senator Levy, please remove a sponsor's star from Calendar Numbers 433 and 1023.

ACTING PRESIDENT KUHL: Sponsor's stars removed on Calendars Number 433 and 1023.

SENATOR FARLEY: All right. On behalf of Senator Skelos, Mr. President, I wish to call up his bill, Senate Print 208-A, that was recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Skelos, Senate Bill Number 208-A, an act to amend the Vehicle and Traffic Law, in relation to requiring the Department of Motor Vehicles to retain the registration plates of a repossessed motor vehicle.

SENATOR FARLEY: Mr. President, I now move to reconsider the vote by which this bill was passed, and I ask that the bill be restored to the order of third reading.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill's before the house. Direct to third reading.

SENATOR FARLEY: Mr. President, I now move to discharge the Committee on Transportation from Assembly Print 752-A, and I substitute it for Senator Skelos' identical bill. The Senate bill, on the first passage, was voted on unanimously. I now move that the substituted Assembly bill have its third reading at this time.

ACTING PRESIDENT KUHL: Substitution is ordered, and read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Unanimous.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR DALY: Mr. President.

ACTING PRESIDENT KUHL: Senator Daly.

SENATOR DALY: Mr. President, would you star Senate Bill 944, Calendar Number 944, Senate 7785.

ACTING PRESIDENT KUHL: Sponsor's star on Calendar Number 944.

Senator Johnson.

SENATOR JOHNSON: Mr. President, on page 41, please put a sponsor's star on Calendar Number 1040, S. 7387-A.

ACTING PRESIDENT KUHL: Sponsor's star is placed on Calendar 1040.

SENATOR JOHNSON: And on the

calendar today, on page 42, is Calendar Number 1050, I'd like that bill to be laid aside for the day.

ACTING PRESIDENT KUHL: Calendar Number 1050 will be laid aside for the day.

Senator DiCarlo.

SENATOR DiCARLO: Senate Resolution Number 684, I'd like the title read and waive the reading of its entirety, and I'd like to open it up for co-sponsorship.

ACTING PRESIDENT KUHL: Senator DiCarlo, we are being told by the Secretary at the desk that we don't have a resolution at the desk.

SENATOR DiCARLO: O.K. I withdraw it.

ACTING PRESIDENT KUHL: When it arrives, we'd be happy to take it up.

Senator Present.

SENATOR PRESENT: Mr. President, can we take up the non-controversial calendar.

ACTING PRESIDENT KUHL: Clerk will read the non-controversial calendar.

THE SECRETARY: On page 13, Calendar Number 585, by Senator Trunzo, Senate Bill Number 3526-A, an act to amend the Retirement and Social Security Law, in relation to investments by public pension funds.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 715, by -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 746, by Senator Hannon.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

SENATOR PRESENT: For the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 840, by Senator Maltese, Senate Bill Number 7445, an act to amend the Executive Law, in relation to awarding crime victim compensation.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill's passed.

THE SECRETARY: Calendar Number 892, by Senator -

SENATOR PRESENT: Lay aside for the day, please.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 903, by Senator Levy, Senate Bill Number 7692-A, amend Chapter 314 of the Laws of 1984, amending the Public Health Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53, nays one, Senator Kuhl recorded -- excuse me. Ayes 52, nays two, Senators Farley and Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 908, by Senator Levy, Senate Bill Number 1405, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the

last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 908 are Senators Daly, DeFrancisco, Farley, Kuhl and Saland. Ayes 49, nays 5.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 921, by Senator Holland, Senate Bill Number 199, an act to amend the Judiciary Law, in relation to increasing the allocation of funds.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2.

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the

bill aside.

THE SECRETARY: Calendar Number 922, by Senator Cook, Senate Bill Number 3034-A, an act to amend the Executive Law, in relation to state aid to rural areas.

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

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 990, by Senator Cook, Senate Bill Number 2915-B, an act to amend the Social Services Law, in relation to the New York State Rural Human Resources Networking.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1005, by Senator Lack, Senate Bill Number 40 -

SENATOR GOLD: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1011, by Senator Padavan, Senate Bill Number 5904-B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1041, by Senator Padavan, Senate Bill Number 1853-A, Agriculture and Markets Law, in relation

to spectators at exhibitions of animal fighting.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1042, by Senator Kuhl, Senate Bill Number 3539-C, an act to amend the Agriculture and Markets Law and the -

SENATOR GOLD: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1047, by Senator Tully, Senate Bill Number 170, Education Law and the General Business Law.

ACTING PRESIDENT KUHL: Read the

last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1055, by Senator LaValle, Senate Bill Number 3721-A, Education Law, in relation to enacting the Higher Education Community Service Act.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54, nays one, Senator Johnson recorded in the negative.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1061, by Senator LaValle, Senate Bill Number 5428, Education Law, in relation to the definition of income.

ACTING PRESIDENT KUHL: Read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1066, by Senator Skelos, Senate Bill Number 7202, Education Law, in relation to massage advertisements.

ACTING PRESIDENT KUHL: Road the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1070, by Senator Nozzolio, Senate Bill Number 7581.

SENATOR PRESENT: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

SENATOR GOLD: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1071, by member of the Assembly Pillittere, Assembly Bill Number 6116-A, an act to amend the Parks, Recreation and Historic Preservation Law.

ACTING PRESIDENT KUHL: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Present, that completes the non-controversial calendar.

Senator Present.

SENATOR PRESENT: Mr. President, let's try the controversial calendar.

ACTING PRESIDENT KUHL: Clerk will read the controversial calendar.

THE SECRETARY: On page 19, Calendar Number 715, by Senator Daly, Senate Bill Number 1093-A, an act to amend the Environmental Conservation Law.

SENATOR GOLD: Explanation.

ACTING PRESIDENT KUHL: Senator Daly, an explanation has been asked for by Senator Gold.

SENATOR DALY: Mr. President, as

we know, the Department of Environmental Conservation has been entrusted with the $1.1 billion Superfund. What we're asking for in this bill is an annual report from the Department of Environmental Conservation, not a new report, but in addition to their existing annual remedial plan update, of what monies are being used, how they're being used, particularly as to the use in specific and the specific sites that are being cleaned up.

The reason for this bill, Mr. President, is that, as I said before, DEC has a $1.1 billion Superfund under its responsibility and we're hearing from DEC and from other groups that the Superfund will run out of monies somewhere in the '90s, in the late '90s, and there's no way we can make that determination and this bill, in asking DEC to provide an accounting of the monies that it's spending from the Superfund, I think, is timely and would be quite helpful to us in determining whether or not we have enough money in the Superfund -- in the Superfund to clean up all the sites needing

clean-up in the state.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Would Senator Daly yield to a question?

ACTING PRESIDENT KUHL: Senator Daly, do you yield?

SENATOR DALY: Certainly, Senator.

ACTING PRESIDENT KUHL: Senator yields, Senator.

SENATOR GOLD: Senator Daly, is this the same bill from last year?

SENATOR DALY: No, it was amended.

SENATOR GOLD: How was it amended?

SENATOR DALY: In that the quarterly report required by the legislation is not now required. We just require the annual report. We've worked this out with, for example, Senator Leichter, and he's been

interested in that part of the bill, and we now have a match with the Assembly with that amendment.

SENATOR GOLD: You now have a match with the Assembly?

SENATOR DALY: Yes.

SENATOR GOLD: Two-house bill.

SENATOR DALY: Yes.

SENATOR GOLD: Senator, will you yield to one more question?

SENATOR DALY: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR GOLD: I have a memo from the Department that says it's strongly opposed and they make reference in here to quarterly basis accounting. Now, is that amendment wrong?

SENATOR DALY: Well, yes.

SENATOR GOLD: This is -- oh, excuse me one second. I'm sorry. Let me correct the question. Their amendment was on your original print?

SENATOR DALY: Yes.

SENATOR GOLD: Now, the "A" print does not have the quarterly?

SENATOR DALY: That's correct.

SENATOR GOLD: And when was the amendment -- when was the bill amended?

SENATOR DALY: I don't have the date, Senator. I can find out.

SENATOR GOLD: I have a stamp -

SENATOR DALY: May 10th.

SENATOR GOLD: So this memo isn't any good.

SENATOR DALY: You have this problem all the time, Senator.

SENATOR GOLD: Is that what you're telling me?

Last section.

SENATOR DALY: Again, we have a similar problem.

ACTING PRESIDENT KUHL: Last section.

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

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 921, by Senator Holland, Senate Bill Number 199, an act to amend the Judiciary Law.

SENATOR GOLD: Mr. President, would you read the last section. I just want to explain my vote.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: I just want to explain my vote, if I could.

ACTING PRESIDENT KUHL: O.K. Clerk will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Senator

Gold to explain his vote.

SENATOR GOLD: Mr. President, this bill was around last year and when it was first brought to our attention by Senator Holland, I tried to point out that, while I was very grateful to Senator Holland, the problem is much more serious than this bill really deals with, and I don't want to pass the bill without again reminding the house as to what's involved.

When we created this attorney's bi-annual registration, one of the reasons was to create a fund so that, if people were defrauded by their own lawyers, the fund would be available. Since that time, there have been extensions of the amount of money taken from lawyers and, with each extension, less and less money was given to the client fund and the Office of Court Administration and others would take from that.

The Holland bill very rightfully would increase from 60 to $100 the amount of the lawyers' fees that go to the fund, but

understand that from what I am told, that will not make the fund solvent. More of that money, more than the hundred has to go if the people who are innocent victims pf lawyers, their own lawyers, are to be compensated.

Right now, the effect of all of this is that people have filed claims and don't get their claims taken care of because the fund doesn't have the money, so there is now a delay of maybe six months, a year or something like that, before the claims are even discussed and it's not because of a backlog in cases. It's a failure to have the money, and I think that's a disgrace of the Legislature's as well as other people, to allow that to happen.

The lawyers are paying in the money, and the injured clients are not getting it.

I vote in the affirmative.

ACTING PRESIDENT KUHL: Senator Gold in the affirmative. Announce the results.

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1005, by Senator Lack, Senate Bill Number 4044-A, an act to amend the Public Authorities Law.

SENATOR GOLD: Explanation.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 1070, by Senator Nozzolio, Senate Bill Number 7581, an act to amend the Navigation Law.

SENATOR GOLD: Can we get a day on this?

SENATOR PRESENT: Lay it aside temporarily until we check with the sponsor.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily. Senator Present, that completes the non-controversial -- or controversial calendar with the exception of Calendar Number 1070.

Now, we have a Resolution

Calendar, and I think a privileged resolution at the desk. No?

SENATOR PRESENT: I move that we accept the Resolution Calendar, copies of which are on our desks.

ACTING PRESIDENT KUHL: The motion is to accept the Resolution Calendar. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Resolution Calendar is adopted.

SENATOR PRESENT: Mr. President, can the Senate stand at ease for a few moments.

ACTING PRESIDENT KUHL: The Senate will stand at ease for a few moments.

(Whereupon at 2:39 p.m., the Senate stood at ease.)

... At 4:25 p.m....

SENATOR PRESENT: In behalf of Senator Levy, I'd like to announce an immediate conference of the Majority in Room 332.

SENATOR GOLD: Mr. President. Senator Present is authorizing me to say a few words.

SENATOR PRESENT: That's it.

At 5:26 p.m.

SENATOR PRESENT: There will be an immediate meeting of the Finance Committee in Room 332.

ACTING PRESIDENT LIBOUS: Immediate meeting of the Finance Committee in Room 332.

At 6:04 4 p.m.

ACTING PRESIDENT KUHL: The Senate will come to order, members take their seats.

Senator Present.

SENATOR PRESENT: Mr. President, can we return to reports of standing committees.

ACTING PRESIDENT KUHL: Return to reports of standing committees. Clerk will read.

THE SECRETARY: Senator Stafford,

from the Committee on Finance, reports the following bills directly for third reading:

Senate Bill Number 8456-A, by Senator Holland, legalize, validate and confirm certain proceedings and actions of the proceedings of the town of Orangetown in the county of Rockland.

Also Senate Bill Number 8480, by the Committee on Rules, an act to provide for payments to certain municipalities under the medical assistance program.

Also Senate Bill Number 8482, by the Senate Committee on Rules, an act to amend a chapter of the laws of 1994, as proposed in Legislative Bill Number 8480.

All bills reported directly for third reading.

ACTING PRESIDENT KUHL: All bills reported directly to third reading.

Senator Present.

SENATOR PRESENT: May we have the third reading on these bills starting with Calendar Number 1078.

ACTING PRESIDENT KUHL: Clerk will read.

THE SECRETARY: Calendar Number 1078, by the Senate Committee on Rules, Senate Bill Number 8480, an act to provide for payments to certain municipalities under the medical assistance program.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, is there a message of necessity and a message of appropriation at the desk?

ACTING PRESIDENT KUHL: Senator Present, both messages are here.

SENATOR PRESENT: I move that we accept the messages.

ACTING PRESIDENT KUHL: All those in favor.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah, on the motion for the moment, Mr. President. It's been

along day. It's now six o'clock, and I appreciate, and I say this with total sincerity, the cooperation of the Deputy Majority Leader in running today, but today was a day where we had a number of breaks in the day in order to do the people's business, and I would like the record to reflect that it is now five after six, and that as a result of some very significant work in the district, Senator Dollinger has had to fly back to Rochester, and I requested that he be excused from voting or at least be marked absent on the three bills we have to go, and I was told by Senator Present that, for some reason, that could not be done.

I also realize that there are other members who are on legislative business and, for reasons which are very, very appropriate, are not in the chamber and because of the significance of these three bills, I will not call a slow roll call, but I think it's important that the record reflect that Senator Dollinger is not here because of appropriate business and I would, therefore, ask that he not

be voted.

I think that would be appropriate, and I want the record to indicate that, if the three roll calls we're about to get into were to reflect a vote on behalf of Senator Dollinger, that those will not be accurate roll calls because unfortunately he is not here, having had to fly back to Rochester.

ACTING PRESIDENT KUHL: All those in favor of the motion, signify by saying aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The messages are accepted. Clerk will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

SENATOR STACHOWSKI: I have a question for Senator Present.

ACTING PRESIDENT KUHL: We're on a roll call, Senator. If you have a point of

order to raise?

SENATOR GOLD: No, I'm sorry. We asked a question properly, and we're not on a roll call, or I ask that it be withdrawn. I think that without disturbing the speed with which we all desire to conclude our business, Senator Stachowski has the right to ask one question.

ACTING PRESIDENT KUHL: Senator Present, do you yield to a question from Senator Stachowski?

SENATOR PRESENT: Sure.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR STACHOWSKI: Senator, is there a message on the next bill, 8482?

SENATOR PRESENT: 8428?

SENATOR STACHOWSKI: Because it wasn't here just a moment ago. Thank you.

SENATOR PRESENT: Yes, there is.

ACTING PRESIDENT KUHL: Clerk will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR GOLD: Now, Mr. President.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Yeah, on a point of order now. Has Senator Dollinger been voted on that roll call?

ACTING PRESIDENT KUHL: The clerk indicates that Senator Dollinger was recorded as an affirmative vote.

SENATOR GOLD: Yeah. Well, I would ask, Mr. President, that you direct the clerk as a point of order not to vote Senator Dollinger as he is not in the chamber nor is he in Albany.

ACTING PRESIDENT KUHL: Senator Gold, I don't believe the Chair has the power to do that. I certainly would accept any statement from the acting Majority Leader in regard to that.

SENATOR PRESENT: Mr. President, I believe that the only one who would vote no would be Senator Dollinger.

SENATOR GOLD: No, Mr. President. Senator Present, as usual, is correct, and I'm not suggesting that Senator Dollinger be recorded in the negative or any other way. I think that he should be recorded as absent because indeed he is absent and not in Albany for very good reasons, but that he should not at this point be recorded.

This session has been delayed for a number of hours for good and valid reason and I am not questioning the motivation or the running of the session by the Majority. I am questioning the voting of Senator Dollinger when I have stated for the record that he is not in the chamber, he is not in Albany and is not attending this session, and I think that it is the most simplest of administrative functions to correct the roll call and not have Senator Dollinger vote.

ACTING PRESIDENT KUHL: Senator

Present.

SENATOR PRESENT: Mr. President, the practice has been, and I would suggest that Senator Dollinger use it on Monday when he returns, that he make the statement that's often made in this chamber that had he been here he would have voted no.

SENATOR GOLD: Well, again, I appreciate Senator Present, who is as always cooperative. This is a little different situation because we now know, I mean there are times, Senator Present, when Senators walk in and out of the chamber, and we allow that process, as you have very accurately indicated, Senator Present.

This is a different situation. It's a situation that resulted as a result of a delay in the session and one member had to leave town to attend to matters in his own district, so in this situation it's a little different because we know, as the vote is being cast, that the member is not in the chamber, not in Albany, and I would again request, Mr. President, that

he not be recorded on the vote.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: His request is denied.

ACTING PRESIDENT KUHL: Doesn't seem to be any agreement to your request, Senator Gold.

The clerk will continue on the roll.

SENATOR GOLD: I'll appeal the ruling of the Chair.

Call the roll.

ACTING PRESIDENT KUHL: The question is on the appeal of the ruling of the Chair, whatever that ruling might have been. All those in favor of sustaining the ruling of the Chair, please cast their vote in the affirmative; those opposed in the negative.

All those in favor of sig... sustaining the ruling of the Chair -

SENATOR GOLD: Party vote.

ACTING PRESIDENT KUHL: -

signify by saying aye.

(Response of "Aye.")

Opposed nay.

SENATOR GOLD: Party vote in the affirmative; party vote in the negative.

ACTING PRESIDENT KUHL: Clerk will record the party line votes. Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 34, nays 23.

ACTING PRESIDENT KUHL: The ruling of the Chair is sustained.

SENATOR DALY: Mr. President, how did Mr. Dollinger vote? Forget it, Mr. President. (Laughter).

ACTING PRESIDENT KUHL: Clerk will read Calendar Number 1079.

THE SECRETARY: Calendar Number 1079, by the Senate Committee on Rules, Senate Bill Number 8482, an act to amend a chapter of the laws of 1994, as proposed in Legislative Bill Number 8480.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, are there two messages at the desk, message of necessity and message of appropriation?

ACTING PRESIDENT KUHL: Senator Present, the clerk indicates there is.

SENATOR PRESENT: I move that we accept the message.

ACTING PRESIDENT KUHL: All those in favor of accepting the message, signify by saying aye.

((Response of "Aye.")

Opposed nay.

(There was no response.)

The ayes have it. The messages are received. The clerk will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date as a chapter of the laws of 1994.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

We've got one more, I think.

SENATOR PRESENT: Mr. President, do we have any housekeeping?

THE SECRETARY: Yes.

SENATOR PRESENT: Can we take care of that now?

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLA: Mr. President, on page 49, I offer the following amendments to Calendar Number 433, Senate Print Number 80-B on behalf of Senator Levy.

ACTING PRESIDENT KUHL: So ordered. Bill will retain its place on the Third Reading Calendar.

SENATOR VELELLA: On behalf of Senator Levy, Mr. President, on page 54 I offer the following amendments to Calendar Number 1023, Senate Print 7991, and ask that said bill

retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: So ordered.

SENATOR VELELLA: On behalf of Senator Seward, on page 17, I offer the following amendments to Calendar Bill -- Calendar 683, Senate Print 5230-B, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: So ordered.

Senator Present, that concludes the housekeeping.

SENATOR PRESENT: Mr. President, there being no further business, I move that we adjourn until Monday, May 23rd, at 3:00 p.m., intervening days to be legislative days. The members should be advised that they are subject to a call of the Majority Leader for session upon 24 hours notice.

ACTING PRESIDENT KUHL: Senate stands adjourned until Monday at 3:00 p.m.

(Whereupon at 6:15 p.m., the Senate adjourned.)