ALBANY, NEW YORK

January 9, 1996

2:01 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Would you please rise and repeat with me the Pledge of Allegiance.

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

May we bow our heads in a moment of silence.

(A moment of silence was observed. )

Reading of the Journal, please.

THE SECRETARY: In Senate, Monday, January 8th. The Senate met pursuant to adjournment, Senator Hoblock in the Chair upon designation of the Temporary President. The Journal of Friday, January 5, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

Reports of select committees.

The Secretary will read.

THE SECRETARY: Senator Farley, from the Committee on Banks, reports the following bills:

Senate Print 2836, by Senator Farley, an act to amend the Banking Law, in relation to money transmitters to eliminate authority to appoint sub-agents;

Senate Print 3788, by Senator Farley, an act to amend the Banking Law and the Penal Law, in relation to providing uniform safety at automated teller machines;

5436, by Senator Farley, an act to amend the Banking Law, in relation to interstate branching.

Senator Lack, from the Committee on Judiciary, reports Senate Print 4228, by Senator DeFrancisco, an act to amend the Lien Law, in relation to notice of lien on account of public improvements;

5103, by Senator Saland, an act to amend the Domestic Relations Law, in relation to special relief in matrimonial actions;

5107, by Senator Saland, an act to amend the Family Court Act, in relation to the submission of transcripts in Family Court proceedings before a hearing examiner;

5754, by Senator Lack, an act in relation to collective bargaining between the Unified Court System and the New York State Court Clerks Association.

Senator Hannon, from the Committee on Health, reports Senate Print 602, by Senator Skelos, an act to amend the Public Health Law, in relation to the Senator Tarky Lombardi Nursing Home Without Walls program;

1621-A, by Senator Lack, an act to amend the Public Health Law, in relation to the sale of commercial urns;

5238, by Senator Hannon, an act to amend the Public Health Law, in relation to quality assurance of managed care plans;

5239, by Senator Hannon, an act

to amend the Public Health Law, in relation to utilization review agents;

Senator Kuhl, from the Committee on Agriculture, reports Senate Print 514-A, by Senator Kuhl, an act to amend the Agriculture and Markets Law, in relation to duties of the Commissioner of Agriculture;

1385, by Senator Kuhl, an act to amend the Agriculture and Markets Law, in relation to exempting working search dogs from licensing fees;

1475-A, by Senator Kuhl, an act to amend the Agriculture and Markets Law, and the Vehicle and Traffic Law, in relation to exempting farm vehicles;

2315, by Senator Kuhl, an act to amend the Agriculture and Markets Law, in relation to the producer referendum under the Rogers-Allen Law;

3917-A, by Senator Kuhl, an act to amend the Agriculture and Markets Law, in relation to the disposition of pro rata shares paid to the Milk Producers Security Fund;

4875, by Senator Cook, an act to amend the Agriculture and Markets Law, in relation to agricultural practices.

Senator LaValle, from the Committee on Higher Education, reports Senate Print 1918, by Senator LaValle, an act to amend the Education Law and the Public Officers Law, in relation to the Board of Regents of the University of the State of New York, reported with amendments;

2178, by Senator LaValle, an act to amend the Education Law, in relation to the Board of Regents of the University of the State of New York, reported with amendments;

3291, by Senator LaValle, an act to amend the Education Law, in relation to filing of notice of athletic scholarships;

3292-A, by Senator LaValle, an act to amend the Education Law, in relation to procedures for standardized testing.

Senator Volker, from the Committee on Codes, reports Senate Print 184, by Senator Tully, an act to amend the Penal Law, in

relation to menacing in the first degree;

188, by Senator Tully, an act to amend the Penal Law, in relation to sexual performance by a child under the age of 18 years;

208-B, by Senator Rath, an act to amend the Criminal Procedure Law, in relation to prohibiting issuance of an order of recognizance or bail;

210-D, by Senator Sears, an act to amend the Penal Law, in relation to dis seminating indecent material to minors through any computer communicating system;

500-A, by Senator DiCarlo, an act to amend the Criminal Procedure Law and the Penal Law, in relation to felony sex offenses;

522-A, by Senator Skelos, an act to amend the Penal Law, in relation to increasing the penalties for custodial interference;

654-A, by Senator Skelos, an act to amend the Executive Law, in relation to the search of criminal history records for persons

seeking employment;

1638, by Senator Johnson, an act to amend the Penal Law, in relation to possessing an obscene sexual performance by a child;

3773, by Senator Volker, an act to amend the Criminal Procedure Law, in relation to submission of written materials to the jury during deliberation;

4262, by Senator Volker, an act to amend the Criminal Procedure Law, the Penal Law and the Civil Practice Law and Rules, in relation to assault against a child;

5479-A, by Senator Volker, an act to enact the Persistent Child Sexual Predator Act, and to amend the Penal Law.

Senator Goodman, from the Committee on Investigations, reports Senate Print 983, by Senator Goodman, an act to amend the Arts and Cultural Affairs Law, in relation to the New York State fine arts collection;

4009-B, by Senator Saland, an act to amend the Tax Law and others, in relation to

enacting the Omnibus Mandate Relief Act;

Senate Print 5617, by Senator Volker, an act to amend the Tax Law, in relation to the imposition of sales and use taxes by the county of Erie.

All bills ordered directly to third reading.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, we have an objection to any unanimous consent reporting all the bills to third reading. We don't want to object, and I was here last week and we were talking about the new spirit of cooperation, and we don't want to be uncooperative, but there is a bill that we understand will come before the Senate today sponsored by Senator Velella, which is an excellent bill. Many of us are co-sponsors of it. There are seven co-sponsors from this side of the aisle who are unable to actually come to Albany today, and with the -- in light of the state of emergency that has been declared by the

Governor up until this morning, we are asking that perhaps Senator Velella's bill be put over until

SENATOR SKELOS: Madam President.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Would Senator Paterson yield to a question?

SENATOR PATERSON: Certainly.

SENATOR SKELOS: On the list of bills that were just read, was Senator Velella's bill included in that list?

SENATOR PATERSON: I didn't hear Senator Velella's bill in that list.

SENATOR SKELOS: If these bills are not reported to third reading without unanimous consent, which is necessary, when will be the first time that these bills can be brought up for discussion and vote in this house?

SENATOR PATERSON: Oh, no, I have absolutely no problem with those bills, Madam President.

SENATOR SKELOS: So the bills

that have been read now, you have no objection to those being reported to third reading?

SENATOR PATERSON: Not at all.

SENATOR SKELOS: I thought your objection was that they be reported to third reading.

SENATOR PATERSON: Well, I

THE PRESIDENT: Senator Paterson, then the bills that have been read will be reported directly to third reading.

SENATOR PATERSON: Madam President, I don't have a problem with those bills, but the reason that I was -- the reason that I was -- was of course, was because of the other bill, and

SENATOR SKELOS: If I could raise a point of order, I believe the bills have now been reported to third reading. The bill that Senator Paterson is debating or questioning is not before this house. If he has a question later as to whether we should be voting upon it, then he should bring it up at that time, but presently that bill, Senator Velella's bill, is

not one of those that are being read.

He's indicated that he's not going to object to these bills being reported to third reading, and I believe the Chair has ruled that the bills, with unanimous consent, have been reported to third reading and perhaps then we can proceed.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Let me clarify my position.

I certainly don't want to object to these bills being reported to third reading.

THE PRESIDENT: Senator Paterson. Are you objecting

SENATOR PATERSON: Yes.

THE PRESIDENT: -- because you have another problem? Are you objecting to these bills being -- are you objecting to any of these bills being reported to the third reading?

SENATOR PATERSON: I'm objecting

to all of them being reported to third reading, Madam President.

THE PRESIDENT: Then the -- O.K. Then the bills will be reported to the order of first reading.

SENATOR SKELOS: If I could have a clarification. I believe about two and a half minutes ago I asked Senator Paterson if he was objecting to the bills being reported to third reading. He indicated no, he was just objecting to a bill that may come up later that was not part of this list.

I believe the Chair ruled then the bills are reported to third reading. Now, Senator Paterson is objecting to these bills being reported to third reading which would indicate to me, because I asked the question previously, if you objected to them, when could we first vote on them and you said, "I'm not objecting to them," so the question is now, the Chair has ruled that the bills have been reported to third reading, I believe.

THE PRESIDENT: I want -- I

believe that Senator Paterson said that he didn't want to object to the bills.

SENATOR SKELOS: O.K. Then I stand corrected. So you are then objecting to the bills being reported to third reading when you said you didn't want to do it and then, if I can ask the question I asked originally, if you are going to object to them, when can these bills be voted upon?

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I want to apologize to the -- to the Majority if I was unclear. What I mean -- if I could clarify my position, not only for the body but for myself, what I would say is that I don't have a problem with those bills. When I rose, I rose, Madam President, to object, which is what I said at the time.

I was then asked a question, basically in terms of substance, do I have any objection to the bills? No, I don't. What I'm saying is, I'm -- I have an objection to the

process, and the reason that I have an objection to the process is because we have some members who can't be here because of weather conditions. It would be a little different if it was just a member or two that had a personal illness or something. We actually have eight members that can't be here, but seven are co-sponsors of a bill that's going to come before the Legislature today, and I just thought that it would be a little more prudent to wait until next week and it will take five minutes to pass the bill.

And so, this is a procedure reporting directly to third reading, Madam President that is really kind of unprecedented. It is not something that we do in the normal course of business, so there has to be some leniency and some cooperation from both sides of the aisle to allow that to happen.

In this particular case, we are being asked to, in a sense, be accommodating at the expense of seven of our members, and I'd like you to know who those members are, Madam

President. Senator Babbush is not here. Senator Hoffmann is not here. Senator Markowitz is not here.

THE PRESIDENT: Senator DiCarlo, why do you rise?

SENATOR PATERSON: Senator Oppenheimer is not here.

SENATOR DiCARLO: Will Senator Paterson yield to a question?

SENATOR PATERSON: Can I just finish the list of the Senators that are not here.

THE PRESIDENT: Yes, complete the list, please, and then I'd recognize Senator DiCarlo.

SENATOR PATERSON: Senator Leichter is not here. Senator Santiago is not here and Senator Waldon is not here.

These Senators are co-sponsors of this bill. They have worked to see this bill passed. They have worked to see this law enacted, and this is a piece of legislation they would want to be a part of. When you look at

the record in retrospect, when you look at the record in July, nobody remembers why they weren't here for its passage and people ask these questions.

THE PRESIDENT: Senator Paterson, will you yield to a question?

SENATOR PATERSON: Well, I'll yield to a question right after I finish the list, and the reason why I was giving you the list, Madam President.

THE PRESIDENT: Senator Skelos, why do you rise?

SENATOR SKELOS: For my infor mation, is that bill before the house? He's telling us about members that are co-sponsoring a bill, a bill that's not before the house.

THE PRESIDENT: No, it's not.

SENATOR PATERSON: Madam President, I'm just trying to finish my statement and, when I'm finished, I'll entertain any questions from anybody, and I have a right to object, even if the bill is not before the house, even if the bill is not on that list.

If the bill relates to something for which I am being asked to accommodate other bills, then I see the connection. Now, if the Majority does not, then, that's fine but that's the reason that we're raising the point that why are we going to be asked to accommodate the Majority in this particular situation by allowing bills to go directly to third reading when we have to then -- I've been informed that we're going to be voting on a bill in which seven of our members who can't be here because of a statewide emergency can't vote on the bills, and that's why I draw a connection between those two situations.

Yes, in a way, I am using those bills to demonstrate the fact that there's a process for which the members of the Minority object. But it's just a -- a fashion of trying to bring forth a message, and that message being that we want to be fair. We want to be cooperative.

We can report a number of bills to -- directly to third reading to speed up the

legislative process. That's what we want to do, but we don't want to see members who aren't here lose the opportunity to vote on a bill when we could do it in five minutes on Tuesday.

THE PRESIDENT: Senator Skelos. Senator Skelos, and then Senator DiCarlo.

SENATOR SKELOS: I yield to Senator DiCarlo.

SENATOR DiCARLO: Thank you.

Senator Paterson, would you yield for a question?

THE PRESIDENT: Senator Paterson, would you yield to a question, please?

SENATOR PATERSON: Most certainly, Madam President.

SENATOR DiCARLO: Senator, it seems you're objecting to something that hasn't come to the floor yet, objecting to it based on the fact that some colleagues are not here in this chamber with the rest of us. Is that basically the case?

SENATOR PATERSON: That is correct, Madam President. The Senator is

correct.

SENATOR DiCARLO: And the reason that you're saying that these Senators are not in the chamber is because of an emergency downstate, is that correct, with snowfall that we've had?

SENATOR PATERSON: That is the information that many of them have given us as to why they can't be here today, Senator.

SENATOR DiCARLO: Senator Paterson, when did you arrive in Albany, if I might ask?

SENATOR PATERSON: 11 years ago, Senator.

SENATOR DiCARLO: This week. This week, Senator.

THE PRESIDENT: Senator DiCarlo.

SENATOR DiCARLO: I asked when he arrived this week in Albany.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: When I most recently arrived?

SENATOR DiCARLO: When you most recently arrived.

SENATOR PATERSON: On Sunday.

SENATOR DiCARLO: On Sunday. Senator Paterson, I arrived on Sunday also and I think many of our legislators and Senators who were serving and were sent here by our constituents came to Albany early, and I think one of the reasons I came to Albany on Sunday and many other Senators came on Sunday is because we all knew that we were having a snowstorm in the downstate region as far back as last Wednesday, isn't that true, from weather reports?

THE PRESIDENT: Senator Paterson.

Senator Skelos.

SENATOR DiCARLO: To rephrase that, when were you aware that we were going to have snow in the New York City region?

SENATOR PATERSON: Senator, many of our colleagues had obviously other obligations that were set before the snowstorm. We didn't schedule the snowstorm. Those of us

who had the opportunity or those such as yourself, who had a predilection about the weather and were able to get here before, certainly should be commended, but what we're doing here today, I would hope, Senator, is the same thing we always do around the state that when there's a part of the state that is affected by some sort of condition and maybe not all of the Senators from that area could get out at the same time, we would

SENATOR DiCARLO: Senator Paterson, do you know when Senator Skelos arrived in Albany?

SENATOR PATERSON: Do I know when Senator Skelos arrived in Albany?

SENATOR DiCARLO: For this week, not 12 years ago.

SENATOR PATERSON: Could you hold on just a second?

SENATOR SKELOS: Senator Marcellino and I left Long Island in the middle of the snowstorm yesterday at 10:00 a.m., and we arrived here at 1:30 ready to do the people's

business, and certainly a day later we're ready to do the people's business.

SENATOR DiCARLO: Senator Paterson, if I might just -- the reason I rise and ask you these questions that we all are aware that we had snow down in the New York City downstate region, and the point that I made about when were we made aware of this fact, the weather forecasters told us on Wednesday and Thursday that it was practically guaranteed that we were getting a foot to two feet of snow over the week end, and then on Friday and Saturday it came down to the region that if you wanted to leave the downstate region to get up here to be in Albany, to be in your offices on Monday, you better leave a little early on Sunday to not be hit with the storm. I object that I was here in Albany yesterday ready to work. When I came from Brooklyn, which had 29 inches, more than Manhattan did, but I got here to do the work of the people and we sat around here and did nothing yesterday because there were some legislators who had a problem getting to work on

time.

Now, I don't know, the excuse is being used for the City and Long Island legislators or Westchester about the snow, but I want to know what was still going on in Syracuse that our Syracuse Senator isn't here.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I -- Madam President.

THE PRESIDENT: Yes, Senator Paterson.

SENATOR PATERSON: Well, I think it's terrific that -- that so many Senators, considering this incident, were able to actually get here, but I would like to point out that one of the reasons that I understood that the session was cancelled yesterday is that the Governor had set a statewide emergency and so that, although Senators could travel, it was asked of the residents of the state that anyone who could avoid traveling do that, and so that that cancellation yesterday was an accommodation

to those members that couldn't be here.

As for today, there is still a problem. The AMTRAK was not running this morning from Penn Station in New York City. There's at least one Senator that got on the AMTRAK that didn't get out of New York City this morning, and so I'm just suggesting that I think Senator DiCarlo is right, that in those cases where it's possible that preparation is always the best order and timely departure is the best order, that that may not have been possible in all cases, and I was just feeling that as an accommodation to our colleagues, all of whom are

SENATOR VELELLA: Could I ask you a question?

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Senator, I'm the sponsor of the bill that I believe you're directing your question to and that you have the problem with. Do any of the members that you listed have a strong objection to this bill that they want to be cast in the negative against

this bill?

THE PRESIDENT: Senator Paterson.

SENATOR VELELLA: Delay the passage of this bill or oppose the concept of this bill?

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I want Senator Velella to be aware that I'm a co-sponsor of this bill, and I did not read the names of all the Senators that are not present. I read the names of the Senators who are not present who are co-sponsors of your bill; so this whole discussion has nothing to do with the substance of your bill.

If anything, it is really out of their admiration for your work that they want to be here and vote for the bill and that at some point in the future, not be penalized for appearing to not be present at the time this

rather important piece of legislation passed, and I don't say that with any

SENATOR VELELLA: Will you yield to another question?

SENATOR PATERSON: Yes.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Have you always been present for every vote on every bill that you supported in this house? I know that I've been absent on several that I was a co-sponsor on and didn't support for one reason or another.

To me, it seems rather strange that the people who support my bill want to delay it further so that they can come and be here when it passes when they know it's going to pass anyway. Their name is going to be on it. They're going to be able to write their news letters. They're going to be able to have their press releases and to use it for those purposes, and granted I appreciate their supporting me in a bipartisan fashion.

I think, however, you do a

disservice by delaying a bill that they support, that -- this is a major bill that's going to save a few lives, that every day there is a potential for a child or mother to be released from a hospital and for them to have serious health problems and maybe die as a result of it.

I think they would applaud getting this out as quick -- as fast as possible. The Assembly has indicated they want to move full steam ahead. The Governor pointed out in his State of the State message that this was a priority. It's a bill to save lives.

I guess sometimes the old saying that you ought not look too closely at good laws and good sausage being made is true. I don't understand. We all agree this is a good bill. This is something that everybody wants, and why the heck are we bickering over what day we pass it?

Let's get it done; let's get it moved. If we have some differences, let's get on the road to resolving them, and the bottom

line is we'll be able to save a few lives a lot sooner. There are babies and mothers being released from hospitals that should not be released. We've had deaths. We've had the testimony. We've seen the problem. Let's act and stop playing petty politics and bickering and jockeying.

I publicly announce everybody that's on the bill equally shares the credit with me. Everybody should issue their press releases from their district office, from their Albany office. Everybody should write a letter saying that they did it. Publicly acknowledge it. Senator Velella, the prime sponsor of the bill, says they did it with me.

THE PRESIDENT: Senator Paterson. You raise a point as to the prematurity of this bill. Senator Gold seems to have something to say.

SENATOR PATERSON: Madam President.

SENATOR GOLD: Madam President, there was a question and Senator Paterson has

the floor. I don't want to step on that. I ask for recognition from the Chair when it's appropriate to recognize me, and I appreciate your comments, but I think Senator Velella and Senator Paterson should be entitled to preference.

THE PRESIDENT: Just a moment. Senator Bruno, why do you rise?

SENATOR BRUNO: Madam President, I would like to ask that we call a little time here and, I'm going to suggest we just recess for a few minutes, but in the interim, I would like to ask for an immediate meeting of the Rules Committee in Room 332, and that will give us a chance to deliberate here while that is going on. With your indulgence, Senator.

THE PRESIDENT: The Senate will recess, and there will be an immediate meeting of the Rules Committee.

SENATOR BRUNO: Just at ease, at ease, Madam President, while the Rules Committee is meeting.

THE PRESIDENT: The Senate is at

ease.

(The Senate stood at ease from 2:29 p.m. until 2:39 p.m.)

THE PRESIDENT: The Senate will come to order, please.

Senator Paterson, why do you rise?

SENATOR PATERSON: Madam President, I'm -- I'm very happy we had this recess because it gave me a chance to reflect, to think about the things that the Minority Leader said last week and the Majority Leader said last week and the cooperation we're going to have and maybe I raced so quickly to get up here Sunday, I'm just out of sync' with the process, because I was really just trying to point out that the unanimous consent to go to third reading, something that would expedite the process, is something that is an accommodation that one side of the aisle gives to another and with our assurance that there is a very high number of absentee Senators today and that seven of them are among the 19 on this side of the

aisle who are very much in support of Velella's bill -- Senator Velella's bill and the fact that this is not an agreed-upon bill and will be negotiated with the Assembly, so if it passed Tuesday or if it passed today would be rather inconsequential to the actual time that it becomes law, we wanted to make that point.

Senator Velella otherwise is right. I don't want to minimize the gravity of the content of his bill. We certainly hope it passes and that it saves lives and in that spirit, Madam President, I withdraw the objection to the report of the standing committees.

THE PRESIDENT: Senator Paterson, the motion before the house is to report the bills that were just read to third reading. Without objection, all bills are reported directly to the third reading.

Reports of select committees.

Reports of select committees?

SENATOR BRUNO: Madam President, can we now receive the report of the Rules

Committee which I believe is at the desk.

THE PRESIDENT: The Secretary will read.

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

Senate Print 5742, by Senator Velella, an act to amend the Insurance Law, in relation to establishing the mandatory minimum coverage for hospital confinement for child birth.

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

(Response of "Aye.")

Opposed nay.

(There was no response. )

THE PRESIDENT: The report is accepted.

Senator Bruno.

SENATOR BRUNO: Can we take up the bill at this time, Madam President.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Calendar Number 1, by Senator Velella, Senate Print 5742, an act to amend the Insurance Law, in relation to establishing the mandatory minimum coverage for hospital confinement for child birth.

THE PRESIDENT: Read the last section please.

THE SECRETARY: Section 4.

SENATOR PATERSON: Madam President.

THE PRESIDENT: Oh, Senator Paterson.

SENATOR PATERSON: Yes, Madam President, I'm back.

THE PRESIDENT: Welcome.

SENATOR PATERSON: Kind of like poltergeist, Madam President.

Would the sponsor yield for a brief question? I don't need an explanation of the bill.

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Yes.

SENATOR PATERSON: Senator Velella, do you have any ideas, in negotiating with the Assembly, because this is really an excellent bill and we did not mean to demean its importance with the discussion about the rules, and as quickly as it can be enacted into law I hope it is. Do you have any ideas as to how the issue may be resolved about Medicaid patients who may not be protected as well as the bill stands right now as opposed to the way it's formulated in the Assembly?

THE PRESIDENT: Senator Velella.

SENATOR VELELLA: Let me respond by giving you a little bit of history on this. This bill came up last -- toward the very end of last session, and we put in a bill and there were some questions about whether or not it was properly drafted, so before we got out of town we did not have enough time to enact the bill.

During the recess, the Governor called me to tell me that he thought this was a priority and wanted to see it moved. I then called Assemblyman Gottfried at the Governor's

request, to do a bill together and the Governor said that, if we can get this together, a simple 48 hours and a five-day stay -- a four-day stay for a C-section, he would be happy to give a bill to both Assemblyman Gottfried and myself, join in that bipartisan spirit, have a press conference with all the co-sponsors and move this thing as a priority bill as soon as the session was back, as soon as we went back into session.

I spoke with Assemblyman Gottfried; our staffs have been talking about it and we have been unable to resolve a few small issues.

The issue of the question of Medicaid funding under this program is something that really doesn't relate to this bill. The purpose of this bill is to get to the issue that there are insurance companies in this state that are making medical decisions and denying women and children reimbursement under their policies for coverage beyond 24 hours in the hospital.

The motive behind that, as I see

it, is a profit motive, private companies telling people they have to get out of the hospital quickly. We don't have that profit motive in the Medicaid piece of coverage. The average stay for a Medicaid patient is a three-day stay beyond what we're mandating in this. That's the average. The DRG that regulate those stays provide for that, so that it really isn't a major Medicaid issue.

This is an issue about companies that are turning people out of hospitals, babies and mothers, within 24 hours because of a greed or profit motive. We want to see that eliminated. That will really not be. That is not a motive under the Medicaid system and, in fact, our research shows that the average stay of a person giving birth, a normal delivery in a Medicaid situation is about three days on the average, some leave a little sooner, some stay a little longer, so I don't see it as a real, real issue.

If Assemblyman Gottfried wants to put some language in there for whatever purpose,

whether it be cosmetic or whatever, we'll talk about it. I don't know, if it's not going to make a difference in the law, if he feels more comfortable with it, we might be able to do something in a conference committee.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, I want to thank Senator Velella for a very complete answer. The purpose of the question was to create a law that actually responds equitably to all people who are in this condition so that down the road, anything that may transpire when we look back and check the statute, that the law applies equally to all situations.

It's a tremendous bill. I commend Senator Velella. I'm happy to see the Governor wanted to make it a priority. I know it's Bill No. 1 on this calendar, and I hope it passes soon.

THE PRESIDENT: Thank you.

Senator Dollinger.

SENATOR DOLLINGER: Yes.

On page 2 of the bill, it talks about the followup, talks about the followup home care if the mother is discharged within the 48 hours, the 96 hours, and my question is, it says "Coverage shall be at a minimum and includes..."

I'll say right up front this is a good bill. Is this in addition to rather than in lieu of any home care coverage available pursuant to this chapter? What are the current standards of available home health care to mothers with infants, and how will this add that extra visit?

I'm just trying to figure out what is their purpose.

SENATOR VELELLA: At any time. It's my understanding there is no statutory mandate as to what type of followup can be had.

Our committee had public hearings. The case of Brian Jones is on everyone's mind, that was the young boy who

died when he was released from the hospital prematurely, was born with only three chambers in his heart, it was not detected, he was released within 24 hours as a normal, healthy child when, in fact, he had a defective heart which ultimately caused his death.

But, the point is, under the plan that his parents had, she had to get out in 24 hours but she was entitled a home health care visit by a "health worker". Now, the health worker came and told the mother the whole problem was she didn't know how to position the baby for nursing and that when she was properly instructed how to position the baby for nursing, the baby would be great, get his color back, would not be yellow any more, would not show jaundice symptoms.

That person, while sincere, was totally unqualified to make that visit and to assess the health of that child. We want to stop that by putting in that there should be licensure, a licensed health professional, and allowing the Health Department to make the

regulations as to what that health professional should do when they go to the site. They must be licensed and they should have had training in postpartum examinations.

So, the purpose of that is to say that beyond the health care worker, we want a health care professional; and whatever your company may give you in terms of a commitment that someone will visit within 24 hours after you are released from the hospital, if you discharge immediately, we want to set a standard in there that isn't there now to say it must be someone with some ability to make a rational judgment because someone visiting and making the wrong diagnosis, as in the case of the Jones baby, was worse than if nobody visited, because if nobody had visited, the parents would have pursued additional medical advice because they thought there was something wrong when the so-called health care worker came and saw these signs and assured the family it was just the positioning of the child for breastfeeding that led the family to wait a

little longer, which was really the problem.

SENATOR DOLLINGER: But in essence

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Again, through you, Madam President, just so I understand it, what this now says is however much home health care a mother and infant would get

SENATOR VELELLA: I'm sorry, I was distracted.

SENATOR DOLLINGER: What this bill says, in essence, if your HMO says that you get so much home health care with a provider of their choice, what we're saying in this bill is whatever that says, you now have to add on a licensed professional, more competent to analyze and assess. You talk about the physical assessment, I think those are the skills that we do need for mothers and children. This will put a single additional required licensed professional, health care

provider, one additional one as a prerequisite of all that HMO coverage. Whatever they have now, this adds one visit with, in essence, a professional of our dictation, rather than their choice.

SENATOR VELELLA: Only in those circumstances where a woman has given birth, has left the hospital in less than 48 hours, she feels fine, the baby looks fine, the doctor says everything's okay, takes the baby home, she's entitled to that extra visit; instead of 40, it will be 41 for the total package.

SENATOR DOLLINGER: On the bill, Madam President. I think this is a good bill. I commend Senator Velella and the other sponsors of this bill.

I had three children, all of whom suffered from jaundice, two of whom had to be taken back to the hospital after they came home because they were detected as having jaundice because of a blood incompatibility between their blood and their mother's blood.

So, the notion of extending to women, all the women of this State, the option if they do go home early to get additional services above and beyond those currently provided by their HMO is a good idea.

And I also think philosophically this is an important moment for us and I commend the sponsor and the chief sponsor for this because as we move in this rapid progression to HMOs and as we move to an environment - and we talked about this today in the Health Committee with Senator Hannon - as we move to an environment in which we're going to allow the private sector to set the standards for health care and because we have a concern, a philosophical concern about overregulating this industry that's going to be subject to competition, we have to remember that it is our fundamental responsibility to intervene in that system when, in our judgment, to protect the public interests, we need to be able to say, "I'm sorry, whatever you want to do for pregnant women who give birth, it isn't

enough under the competitive private sector model."

And we have to continue to be attentive to those instances in which the public interest requires that we do more, and I think this is a clear example of that. I know there will be other examples, and this is a reminder to us that we need to continue to be vigilant, that we don't allow the competitive model to drive our health care system to a state where we are only barely protecting women and children.

I think we have got to provide more than just bare protection because of the dangers presented, not just in the Jones case, the dangers presented in my own family's case.

I think this is a good bill, I think it's a good trend, and it sends a good message to people about this State. We're going to be vigilant and not allow a competitive health care model to make all the public interest decisions, we're still going to

contain that power and intervene when necessary.

Congratulations.

THE PRESIDENT: Thank you, Senator.

Senator Bruno.

SENATOR BRUNO: I would like to, as I believe you're concluding debate, just acknowledge the good will that is represented on both sides of the aisle as we relate, Madam President, to something that's critically important to the people of this State; and I really firmly believe that your indulgence sets the tone for a session that's going to be extremely productive for the people of this State.

Thank you.

THE PRESIDENT: Thank you, Senator Bruno.

Read the last section, please.

THE SECRETARY: Section 4. This act shall take effect on the 180th day.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

SENATOR HANNON: To explain my vote.

THE PRESIDENT: Senator Hannon to explain his vote.

SENATOR HANNON: Yes. I would like to explain my vote. I just want to congratulate Senator Velella for his seizing upon this issue. In fact, if he had acted upon it last June, we would probably be first in the nation when he had introduced it and correctly recognized that this brings home the tension between what people can do for quality care and what they can do for trying to save money and rewrite a balance that had gotten too far.

There are problems, however, in terms of the inability of any state to reach all people who are covered because of the federal preemption under ERISA, and that, of course, leaves us with a number of choices that are difficult because you not only are

prevented from reaching all covereds when you're dealing with HMOs, but also with the traditional fee for service, and we would be looking to work with the whole business community and through this administration of Governor Pataki's to reach out to that business community so that they might afford to their covereds, especially through the largest corporations, what would be a reasonable balance of care so that people would keep and gain a confidence in this system that Senator Velella has introduced for the HMOs, and so I'm very happy to support this bill. Thank you.

THE PRESIDENT: Thank you, Senator Hannon.

Would you repeat the results?

THE SECRETARY: Ayes 47.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, can we, at this time, return to resolutions and move for their immediate

adoption?

THE PRESIDENT: All those in favor of adopting the Resolution Calendar, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The Resolution Calendar is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, we are in the process of printing a piece of legislation that's important that we move and I am told that we have a mechanical problem that's going to get resolved in about ten minutes. So, I would respectfully ask the members to stand at ease for about ten minutes.

THE PRESIDENT: The Senate will stand at ease.

(The Senate stood at ease from 2:56 p.m. to 3:03 p.m.)

ACTING PRESIDENT FARLEY: Senator Bruno.

SENATOR BRUNO: Mr. President, can we ask for an immediate meeting of the Rules Committee in room 332?

ACTING PRESIDENT FARLEY: The Rules Committee will meet in room 332 immediately, and the Senate will continue to stand at ease.

(The Senate continued to stand at ease.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, can we have the report of the Rules Committee, please?

THE PRESIDENT: The Secretary will read.

Senator Bruno from the Committee on Rules reports the following bill: Senate Print 5758 by Senator Johnson, an act authorizing the extension of time for the collection of taxes without interest in Suffolk County in 1996 as a result of the severe weather conditions in such county.

SENATOR BRUNO: Move we adopt

that report, Madam President.

THE PRESIDENT: All those in favor of accepting the report of the Rules Committee, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The report is accepted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we now at this time take up Calendar No. 49?

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar No. 49 by Senator Johnson, Senate Print 5785, an act authorizing the extension of time for the collection of taxes without interest in Suffolk County in 1996 as a result of the severe weather conditions in such county.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President is there a Message of Necessity at

the Desk on this bill?

I move that we accept the Message at that time.

THE PRESIDENT: All those in favor of accepting the Message, signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The Message is accepted.

SENATOR BRUNO: At this time, move to read the last section.

THE PRESIDENT: Read the last section.

THE SECRETARY: Section 3, this act shall take effect immediately.

THE PRESIDENT: Call the roll, please.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, we just have a question; nothing wrong with this bill, we just have a question.

THE PRESIDENT: To whom are you addressing it?

SENATOR PATERSON: The sponsor or to whom may concern.

THE PRESIDENT: Senator Johnson.

SENATOR JOHNSON: Yes.

SENATOR PATERSON: Senator, the substance of the bill is quite self-explanatory. Are there any other regions where this same problem may arise? Is there any reason we're doing it just for Suffolk County -

SENATOR JOHNSON: Where are you reading?

SENATOR PATERSON: -- cover all the residents that may be affected?

THE PRESIDENT: Senator Johnson?

SENATOR JOHNSON: Senator,

this was brought to the attention of the Suffolk County members by the respective town supervisors and county executive, et cetera, and asked to get this bill out.

If you want to do it for another county -- it's the County Tax Act, which is unique.

SENATOR PATERSON: Thank you, Senator.

THE PRESIDENT: The results, please.

THE SECRETARY: Ayes 47.

THE PRESIDENT: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Madam President, I believe there is a report from the Transportation Committee; can that be read at this time?

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Senator Levy from the Committee on Transportation reports

the following bills: Senate Print 34 by Senator Holland, an act to relocate the Spring Valley toll plaza of the New York State Thruway;

95, by Senator Volker, an act to amend the Vehicle and Traffic Law in relation to authorizing villages and towns to regulate traffic;

319, by Senator Levy, an act in relation to requiring Department of Motor Vehicles to inform the public of problems associated with nighttime driving;

322, by Senator Levy, an act in relation to requiring the Commissioners of Motor Vehicles, Transportation and Education to develop a uniform definition of terms "school" and "school bus", reported with amendments;

331, by Senator Levy, an act to amend the Vehicle and Traffic Law in relation to distinctive plates for police officers wounded in the line of duty;

369, by Senator Levy, an act to amend the Vehicle and Traffic Law in relation

to authorizing the proration of registration fees for stolen motor vehicles;

429, by Senator Levy, an act in relation to authorizing the Commissioner of Transportation and others to develop and implement a uniform statewide system, reported with amendments;

610, by Senator Stafford, an act to amendment the Vehicle and Traffic Law in relation to the operation of school buses;

1491, by Senator LaValle, an act to amend the Vehicle and Traffic Law in relation to traffic control signal indicators;

3186, by Senator Wright, an act to amend the Vehicle and Traffic Law in relation to allowing commercial vehicles to have distinctive plates;

3488-A, by Senator Levy, an act to amend the Public Authorities Law in relation to requiring the Metropolitan Transportation Authority to implement and maintain subway station signs; reported with amendments;

4857, by Senator Levy, an act

to amend the Vehicle and Traffic Law in relation to increasing fines associated with passing school buses.

All bills ordered directly for third reading.

THE PRESIDENT: Without objection, all bills will go directly to third reading.

Senator Bruno.

SENATOR BRUNO: Madam President, is there any housekeeping at the Desk?

THE PRESIDENT: No, there is not.

SENATOR BRUNO: There is no housekeeping. Then there being no further business to come before the Senate, I move that we stand adjourned until January 16th, Tuesday, at 3 p.m., intervening days being legislative days. Thank you.

THE PRESIDENT: Without objection, the Senate stands adjourned until Tuesday, January 16th at 3 p.m., intervening "

days to be legislative days.

(Whereupon, the Senate adjourned at 3:09 p.m.)