ALBANY, NEW YORK

May 30, 1996

11:02 a.m.

REGULAR SESSION

SENATOR JOSEPH L. BRUNO, 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. Members will find their places, guests find their places. Ask everybody to rise and join with me in the saying the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT KUHL: In the absence of clergy, may we bow our heads in a moment of silence.

(A moment of silence was observed. )

Reading of the Journal.

THE SECRETARY: In Senate, Wednesday, May 29th. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. Prayer by the Reverend Pastor Christian Schoenberg, Trinity Lutheran Church of Hawthorne. The Journal of Tuesday, May 28th, 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 Marcellino.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Farley, on page number 31, I offer the following amendments to Calendar Number 912, Senate Print Number 6221, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar 912 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Marcellino.

SENATOR MARCELLINO: Also on

behalf of Senator Farley, on page number 31 I offer the following amendments to Calendar Number 913, Senate Print Number 6222, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 913 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Marcellino.

SENATOR MARCELLINO: On behalf of Senator Leibell, Mr. President, on page number 30, I offer the following amendments to Calendar Number 900, Senate Print Number 5019, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted. Bill will retain its place on the Third Reading Calendar.

SENATOR MARCELLINO: Thank you.

ACTING PRESIDENT KUHL: Senator Tully.

SENATOR TULLY: Yes, Mr.

President, on page 21, I offer the following amendments to Calendar 739, my bill, Senate Print Number 6839-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 739 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Tully.

SENATOR TULLY: Mr. President, on page 21, I offer the following amendments to Calendar Number 740, my bill, Senate Print Number 6871-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted. Bill will retain its place on the Third Reading Calendar.

Senator Tully.

SENATOR TULLY: Mr. President, on behalf of Senator Hoblock, on page 35, I offer the following amendments to Calendar Number 949, Senate Print Number 5842-A and ask that said bill retain its place on the Third Reading

Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted. Bill will retain its place on the Third Reading Calendar.

Senator Tully.

SENATOR TULLY: Yes, Mr. President, on behalf of Senator Libous, please place a sponsor's star on Calendar Number 717.

ACTING PRESIDENT KUHL: Calendar 717 is starred at the request of the sponsor.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in Room 332 of the Capitol.

ACTING PRESIDENT KUHL: Immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. Immediate meeting of the Rules Committee in Room 332, the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: On behalf of Senator Bruno, I offer up the following resolution and ask that the title be read and

move for its immediate adoption.

ACTING PRESIDENT KUHL: Secretary will read the title of the privileged resolution.

THE SECRETARY: By Senator Bruno, concurrent resolution of the Senate and Assembly, authorizing the Temporary President of the Senate and the Speaker of the Assembly to file an election to make certain officers and employees of joint legislative employers eligible for the retirement incentives offered by Chapter 30 of the Laws of 1996.

ACTING PRESIDENT KUHL: Question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, I offer the following resolution and ask that the title be read and move for its immediate

adoption.

ACTING PRESIDENT KUHL: Secretary will read the title of the privileged resolution.

THE SECRETARY: By Senator Bruno, legislative resolution commemorating the 125th Anniversary of the Castleton Fire Company to be celebrated on June 7 and 8, 1996.

ACTING PRESIDENT KUHL: Question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Holland.

SENATOR HOLLAND: Mr. President, I believe there's another resolution at the desk. I ask that the title be read and move its adoption.

ACTING PRESIDENT KUHL: Secretary will read the title of the privileged resolution.

THE SECRETARY: By Senator Bruno, legislative resolution commemorating the 20th season of the New York State Theatre Institute.

ACTING PRESIDENT KUHL: Question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The resolution is adopted.

Senator Holland.

SENATOR HOLLAND: Mr. President, I believe there's a privileged resolution at the desk by Senator Farley. May we please have the title read and move its immediate adoption.

ACTING PRESIDENT KUHL: Secretary will read the title of the privileged resolution by Senator Farley.

THE SECRETARY: By Senator Farley, legislative resolution commending the town of Charlton upon the occasion of its 28th Annual Founders Week End.

ACTING PRESIDENT KUHL: Question

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

(Response of "Aye.")

Opposed nay.

(There was no response. )

The resolution is adopted.

SENATOR HOLLAND: Mr. President.

ACTING PRESIDENT KUHL: Senator Holland, that brings us to the calendar.

SENATOR HOLLAND: Could we move the non-controversial calendar, please.

ACTING PRESIDENT KUHL: Secretary will call the non-controversial calendar.

THE SECRETARY: On page 4, Calendar Number 41, by Senator Levy, Senate Print 331-A, an act to amend the Vehicle and Traffic Law, in relation to distinctive plates.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 262, by Senator LaValle, Senate Print 2882-A, an act to amend the Education Law, in relation to the registration of licensed professionals.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 456, by Senator Maltese, Senate Print 2092-A, an act to amend the Education Law, in relation to a program for graduate student aid.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 33.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 504, by Senator Marcellino, Senate Print 5773-A, an act to amend the Vehicle and Traffic Law, in relation to certificates of inspection.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 32, nays one, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 577, by Senator Johnson, Senate Print 3233, an act to amend the General Business Law, in relation to limitations.

SENATOR PATERSON: Lay it aside.

SENATOR HOLLAND: Lay aside for the day, please.

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

THE SECRETARY: Calendar Number 639, by Senator Seward, Senate Print 6505, an acted to amend the Energy Law, in relation to authorizing energy performance contracts.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 34.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 640, by Senator Seward, Senate Print 6537, an act to amend the Public Service Law, the Public Officers Law and the General Construction Law.

SENATOR PATERSON: Lay that aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 659, by Senator Maziarz, Senate Print 6547, an act to legalize, certificate and confirm the acts of Lyndonville Central School District.

ACTING PRESIDENT KUHL: There's a local fiscal impact note at the desk. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 685, by Senator Levy, Senate Print 6876-A, an act to amend the Vehicle and Traffic Law, in relation to the right of way.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 36.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 697, by Senator Hoblock, Senate Print 6257-A, an act to amend the Penal Law, in relation to prohibiting an employer from unlawfully penalizing a victim.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect on November 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 718, by Senator Libous, Senate Print Number 6899, an act to amend the Mental Hygiene Law and the Education Law, in relation to providing mandate relief.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

719, by Senator Cook, Senate Print 3220-B, an act to amend the Soil and Water Conservation Districts Law.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 776, by Senator Saland, Senate Print 1434-B, an act authorizing the Commissioner of General Services.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 792, by the Assembly Committee on Rules, Assembly Print 8244-A, an act to amend the Education Law, in relation to mandatory continuing education for dentists.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1st.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 844, by Senator Levy, Senate Print 7311-A, an act to amend Chapter 96 of the Laws of 1993, amending the Highway Law and others.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 846, by Senator Levy, Senate Print 7351-A, an act to amend the Public Authorities Law, in

relation to the issuance of variable rate obligations.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 849, by Senator Levy, Senate Print 7363, an act to amend the Public Authorities Law, in relation to jurisdiction.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 867, by member of the Assembly Weisenberg, Assembly Print 8529-A, an act to amend the Executive Law and others, in relation to career education.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Skelos, Senate Print 6892, an act to authorize the payment of transportation aid to the Baldwin Union Free School District.

ACTING PRESIDENT KUHL: There's a

local fiscal impact note at the desk. Secretary 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. )

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 879, by Senator Present, Senate Print 7031, an act to legalize, validate, ratify and confirm certain actions and proceedings.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 908, by Senator Spano, Senate Print 4005-D, an act creating the Temporary State Commission on the Livery Industry.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 15. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 916, by the Assembly Committee on Rules, Assembly Print 8394-B, an act to amend the Education Law, in relation to the establishment of a community college region.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 924, by the Assembly Committee on Rules, Assembly Print 7695-B, an act to amend the County Law and others, in relation to application of paragraph (d) of such section.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 39.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

938, by Senator Larkin, Senate Print 7089, an act to amend the County Law, in relation to authorizing county sewer districts.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1012, by Senator Goodman, Senate Print 6639, an act authorizing the city of New York to reconvey its interest in certain real property.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 40.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1056, by Senator Lack, Senate Print 4757-A, an

act to amend the General Obligations Law, in relation to statutory short forms.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 8. This act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1059, by Senator Hoblock, Senate Print 6260, an act to amend the Domestic Relations Law, the Public Health Law, the Executive Law and the State Finance Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 12. This act shall take effect April 1st.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1069, by Senator Maziarz, Senate Print 7432, an act to amend the Environmental Conservation Law, in relation to providing for the removal of fill pipe.

SENATOR MALTESE: At the request of the sponsor, can that be laid aside for the day.

ACTING PRESIDENT KUHL: The bill will be laid aside for the day.

THE SECRETARY: Calendar Number 1086, by Senator Goodman, Senate Print 7458.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1101, by Senator LaValle, Senate Print 6324, an act to amend the Penal Law, in relation to

unlawfully posting advertisements.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1103, by Senator Volker, Senate Print 6529, an act to amend the Civil Practice Law and Rules, in relation to personal service.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1107, by Senator Larkin, Senate Print 6840, an act to amend the Criminal Procedure Law, in relation to security services.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1116, by Senator Leibell, Senate Print 7492, an act to -

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1130, by Senator Volker, Senate Print 549, an act to amend the Highway Law, in relation to authorizing the placement of drug-free school zone signs.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 42.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1133, by member of the Assembly Gantt, Assembly Print 5979, an act to amend the Vehicle and Traffic Law, in relation to the license plates of rental vehicles.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 180th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1135, by Senator Goodman, Senate Print 1605, an act to amend the Vehicle and Traffic Law, in relation to the time period in which complaints against motor vehicle repair shops may be made.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This

act shall take effect on the 1st day of January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 43, nays one, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1162, by member of the Assembly Magee, Assembly Print 9815, an act to amend the Highway Law, in relation to adding the Commissioner of Agriculture and Markets.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1169, by Senator Holland, Senate Print 6616-A, an act to amend Subdivision 1 of Section 2 of Chapter 155 of the Laws of 1986.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1171, by Senator Libous, Senate Print 6990-A.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1174, by the Assembly Committee on Rules, Assembly Print 8120-A, an act to amend the

Executive Law, in relation to increasing the amount for burial expenses.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1184, by Senator Stafford, Senate Print 6531, an act to amend the Public Authorities Law, in relation to establishing the 1932 and 1980 Lake Placid Winter Olympic Museum.

ACTING PRESIDENT KUHL: Secretary 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. )

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1188, by Senator Marchi, Senate Print 6818, an act to amend the Limited Liability Company Law and the Partnership Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1206, by Senator DeFrancisco, Senate Print 5529 A, an act to amend the Election Law, in relation to party nominations.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 1st day of December.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 45.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Holland, that completes the reading of the non-controversial calendar.

SENATOR HOLLAND: Mr. President, could we do the controversial calendar, please.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar beginning with Calendar Number 640, by Senator Seward.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Gold, why do you rise?

SENATOR GOLD: Yeah, if I can impose, before we do that, yesterday we had

Calendar Number 381, Senate 3520-A, by Senator DeFrancisco. I was out of the chamber. Could the record indicate if I were here I would have voted in the negative, and on Calendar Number 1167, Senate Print 1468, by Senator Holland, would it please indicate that had I been here I would have voted in the negative.

ACTING PRESIDENT KUHL: Senator Gold, the record will reflect that had you been in the chamber yesterday when the roll call was called on Calendar Number 381 and also 1167, that you would have voted in the negative.

SENATOR GOLD: Thank you.

ACTING PRESIDENT KUHL: Secretary will read the con...

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter, why do you rise?

SENATOR LEICHTER: Would you please, with unanimous consent, record me in the negative on Calendar 1107.

ACTING PRESIDENT KUHL: 1107?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 1107.

Secretary will read the controversial calendar.

THE SECRETARY: On page 17, Calendar Number 640, by Senator Seward, Senate Print 6537, an act to amend the Public Service Law, the Public Officers Law and the General Construction Law, in relation to video conferencing.

SENATOR PATERSON: Last section.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 719, by Senator Cook, Senate Print 3220-B, an act to amend the Soil and Water Conservation Districts Law, in relation to authorizing districts.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 1st day of June.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 776, by Senator Saland, Senate Print 1434-B, an act authorizing the Commissioner of General Services to sell certain land to the city of Beacon.

ACTING PRESIDENT KUHL: Secretary will read the -- Secretary will read the last section.

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

SENATOR PATERSON: Party vote in the negative, Mr. President.

SENATOR HOLLAND: Party vote in the affirmative.

ACTING PRESIDENT KUHL: Senator Holland, what's your pleasure?

SENATOR HOLLAND: Mr. President, would you lay this bill aside for the day, please.

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

THE SECRETARY: Calendar Number 938, by Senator Larkin, Senate Print 7089, an act to amend the County Law, in relation to authorizing county sewer districts.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of Calendar Number 938, Senate Bill 7089, has been asked for by Senator Dollinger.

SENATOR LARKIN: Senator

Dollinger, this bill was introduced at the request of the Orange County Legislature. They want to amend the County Law to authorize the county sewer district to enter into certain agreements.

Part of it goes back to a federal executive order signed into law by then President Bush which gave back authority to local government to privatize and yet eliminate any debt owed to them by the federal government.

What we're doing here is we have a facility in Orange County that's reached its capacity. There are no extra funds. This was passed by the Legislature that those, in turn, representing the towns and villages and cities within Orange County, I say to you that we've had a moratorium on our plant because of expansion. There can be no new business in that part of the county. This is the only facility of its kind, and it's the belief of the county, their financial planners and all, their fiscal planners, that this is the best vehicle to go

to.

SENATOR DOLLINGER: Mr. President, if Senator Larkin will yield to just one question.

ACTING PRESIDENT KUHL: Senator Larkin, do you yield to a question from Senator Dollinger?

SENATOR LARKIN: Yes, I will, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR DOLLINGER: I laid the bill aside, Senator, because CSEA, I guess, put in a memo in opposition.

SENATOR LARKIN: Mr. President, I can't hear him.

ACTING PRESIDENT KUHL: Can we have a little quiet in the chamber, please. Members take their conversations out of the chamber.

SENATOR DOLLINGER: Through you, Mr. President, I laid the bill aside because there was a memo in opposition which suggested

that there hadn't been any public input in the decision to do this, and my understanding from you is that there has been public input. I assume there was a county legislative hearing before this bill every came -

SENATOR LARKIN: Yes, there was, with a resolution from the county, sir.

SENATOR DOLLINGER: And I assume this comes with a home rule message from Orange County.

SENATOR LARKIN: We weren't asked for a home rule message by home rule counsel, sir.

SENATOR DOLLINGER: O.K., but my understanding is that the Orange County Legislature has voted in favor of doing this.

SENATOR LARKIN: Yes, they did.

ACTING PRESIDENT KUHL: Secretary 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: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 938 are Senators Abate, Connor, Dollinger, Kruger, Lachman, Paterson, Stachowski. Ayes 39, nays 7.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar 1086, by Senator Goodman, Senate Print 7458, an act to amend the Tax Law, in relation to disclosure of tax returns.

SENATOR PATERSON: Explanation.

SENATOR HOLLAND: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar 1101, by Senator LaValle, Senate Print 6324, an act to amend the Penal Law, in relation to unlawfully posting advertisements.

SENATOR DOLLINGER: An

explanation, please.

ACTING PRESIDENT KUHL: Senator LaValle, an explanation of Calendar Number 1101 has been requested by Senator Dollinger.

SENATOR LAVALLE: Mr. President, this bill is very straightforward, but I'm going to start with why and what we're trying to accomplish, and then I think the words that we're adding here will begin to have some meaning.

Suffolk Community College had contacted my office and we also had the involvement of the trustees at the Community College because the campus has been flooded by flyers, and I have a Newsday story of the January 24th of this year. The headline is "Flooded by Flyers, College Battles Bars that Dump Handbills on Campus. They're a night club promoter's dream. Flyers promising free drinks and free admissions to lure in crowds, and they're piled high in college classrooms and stuck on every car windshield in the college parking lot."

And so that really is the essence behind what the board of trustees at their meeting in January, January 25th, in a resolution, that is trying to get a handle on approving the college or setting a policy for the college in the distribution of handbills, but asked us for some statutory changes, and we asked - communicated with the district attorney, D.A. James Catterson, on how we might approach this, and also asked some people at the -- at Turo Law School how we might approach this because we're obviously dealing with First Amendment rights, and I'm sure that's why Senator Dollinger raised the question, and what we're doing is we're adding to the Penal Law. It's very, very simple. It says, "A person is guilty of unlawfully posting advertisements when having no right to do so, any reason or ground to believe that he has such right, he posts, paints, affixes," what we're adding, the words "to or otherwise places upon the property of another person, any advertisement, poster," et cetera.

So the only thing I can imagine,

Senator Dollinger, is that you have broader concerns, constitutional concerns in whether our language has a chilling effect on one's ability to distribute posters, and so forth.

We believe we don't. If you have a disparate view, certainly -

SENATOR DOLLINGER: Mr. President, I don't even think I need to question Senator LaValle because it is so straight forward, and I appreciate the goal and certainly sympathize with the college's problems in the flood of this material designed for later adolescents to encourage consumption of alcohol or other activities that clearly may not be in their best interests and, frankly, we shouldn't have an interest in promoting them.

My concern is that I will stand guilty, I guess, and I don't know how many members of the Senate have stood here and said that they've violated a provision of the law, but when I ran for election in Monroe County, it was an age old tradition to take a flyer that said "Vote for Dollinger" and go into a parking

lot and clip it on the windshield wiper on the day -- on election morning. We used to have what we called the "black turtleneck brigade", that went out in black turtlenecks and went out into parking lots at 4:00 o'clock in the morning and put political information, information that officials running for office wanted the voter, it said, Today is election day, please vote; keep in mind Rick Dollinger.

It seems to me, and I wasn't aware that that may be illegal under this law. It may be illegal not only to do it in a private parking lot of an apartment house which I think I guess I can understand a greater basis once you get away from public property, but I always thought that at least putting it under the windshield of a car on a public street wasn't against the law, and it seems to me that what this bill does is it sweeps so broadly, and I - Senator, I appreciate what you're doing to append to this bill, I didn't even know this was in the Penal Law.

I believe the whole section may

go too far in sweeping too many kinds of activities. My guess is it's not rigorously enforced in this state. My guess is that there have been very few prosecutions for doing this, but it seems to me that because of the danger of interfering with political discourse, that is a candidate running for office, in the Suffolk County Community College or at a Suffolk County institution says, I want to put my political advertisement up on the school bulletin board or I want to put a political cartoon up on the bulletin board, all of those things, assuming that he hasn't gotten approval beforehand would be illegal, technically illegal, under this provision.

So, Senator, I appreciate your concern; you're doing the right thing for your constituents. I think you may be doing the right thing for a whole host of people in this state by trying to curb the unnecessary proliferation of this kind of massive stick it on the bulletin board, slap it up on the wall, put glue on the back of it, stick it every

where, deface, litter, all of those things are commendable reasons to justify this, but I'm going to vote against it because I think it's overly broad and may infringe and may create a problem for those who are engaged in the type of political communication that's at the heart of this republic.

I'm always reminded about the pamphleteer who stood out on the street corner back in 1750 and said, Time for us to declare that we're going to break with England and we're going to stand on our own two feet. They put billboards up, they put them up on the corners of walls; they put them up on British forts; they put them up on corners and street corners and defaced buildings throughout the United States. It's one of the ways they were able to communicate and spread the word that we should be an independent country, so I guess it's in that tradition that I would be voting in the negative, although I, frankly, understand the basis for promoting it.

ACTING PRESIDENT KUHL: Senator

Montgomery.

SENATOR MONTGOMERY: Mr. President, I would like to know if the sponsor would yield to just one question for clarification.

ACTING PRESIDENT KUHL: Senator LaValle, do you yield? Senator yields.

SENATOR MONTGOMERY: Senator LaValle, in the vein of what Senator Dollinger asked, I frequently -- as a matter of fact, I always when I'm campaigning stick flyers under the doors of my neighbors in my building, and would this -- would that be illegal under this -- under this bill?

SENATOR LAVALLE: Well, I think what Senator Dollinger has said is that forgetting the amendment that we're making, that many of these activities that we -- we do because there is tradition and custom may, under the existing law, already be illegal, and so because it says here -- and I'll read again, A person is guilty of unlawfully posting advertisements when having no right to do

so....

Well, if you're on someone's private property and they may have a prohibition against that, then you are in violation if you're sticking flyers in an apartment building which is private property already, forgetting what we're trying to do by making the simple changes and again, Senator Dollinger, I think, hit it on the -- on the head. It's more substance than form here because we're talking about whether any additional changes would have a chilling effect on First Amendment rights, and again his commentary is whether the existing law -- the existing law is already broad.

We think we've gone -- we've tried to be very sensitive because we know what we're dealing with here in First Amendment rights. We've tried to carve out the -- you know, another exception here to deal with a proliferation of litter and unwanted information on a campus which is a public place, rather than a private ground.

SENATOR MONTGOMERY: Mr.

President, just for the record, even though I live in the building, Senator LaValle, it's considered an illegal act even under existing law, is that what you're -- it could possibly be interpreted as an illegal act for me to distribute (unintelligible) literature to my neighbors.

SENATOR LAVALLE: It's questionable because one would say, what is your domi... I mean what is your residence? Is it the entire building? And you know, so you could get into -- you could get into some legal question. That's why I found in law school constitutional cases were always very exciting because they brought about sides of the law or the Constitution that you really may not have thought about before, so that's what makes constitutional cases so exciting.

In really responding to your question, I think it's a coin toss in how you define what your residence and what your scope of authority is within your residence.

SENATOR MONTGOMERY: O.K.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of November.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 48, nays 2, Senators Dollinger and Montgomery recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1103, by Senator Volker, Senate Print 6529, an act to amend the Civil Practice Law and Rules, in relation to personal service.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 1st day of

January.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 50.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1116, by Senator Leibell, Senate Print 7492, an act to amend the Administrative Code of the city of New York and the Emergency Tenant Protection Act of 1974.

SAENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Leibell, an explanation of Calendar Number 1116 has been asked for by the acting Minority Leader, Senator Paterson.

SENATOR LEIBELL: Yes, Mr. President.

This is an act to amend the Administrative Code of the city of New York and the Emergency Tenant Protection Act of 1974, in relation to the calculation of awards of rent

overcharges.

Our goal is to statutorily codify the original intent of this law and to establish a statute of limitations on challenges to rents and increases prior to a four-year period preceding the filing of an overcharge complaint by a tenant.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President if Senator Leibell, would yield to a question.

ACTING PRESIDENT KUHL: Senator Leibell, do you yield?

SENATOR LEIBELL: Yes, sir.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, the original intent of the law that we passed in 1974 is what actually concerns me. I'm afraid that, if we pass this bill, we're going to lock in a lot of illegal rents that actually exist.

Now, I can understand the statute of limitations for recovery, but what would

apply in many cases that would be eliminated in this bill would be actually a bar to evidentiary information which would provide information for what the rent overcharge actually was and I'm afraid that if we pass this bill it truncates it. So my question is do you think that that really is the intent of the original legislation of 1984 or the Omnibus Housing Act that we passed in 1983 or would not it be better public policy to allow for the introduction of evidence even if it's beyond four years that would establish that some landlord or owner was overcharging the tenant?

SENATOR LEIBELL: The reason for this bill is because there's been a discrepancy in two different appellate courts concerning what was the intent of the Legislature. At the best, you're going to be able to go back and seek a return for overcharges of four years. What this legislation attempts to do, this bill, is to make certain that it would not be necessary to keep records beyond that point. It isn't -- and it wouldn't be necessary to anyway

because you couldn't recover for more those four years.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If the Senator would continue to yield.

ACTING PRESIDENT KUHL: Do you continue to yield, Senator Leibell?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR PATERSON: Thank you very much for the clarification, Senator, and that is important. We're not trying to extend the statute of limitations for recovery, but the records could be extremely helpful to the recovering party, to the plaintiff, to the tenant, because it would establish that there was an overcharge and that it goes back beyond four years. If the overcharge existed for the entire four years, there's no way to prove that there was ever a time perhaps that the over charge was originally installed, and although

there is some disagreement between the First and Second Departments in terms of the interpretation of the existing legislation, and I understand that it is well held law, that what your legislation is trying to accomplish could be because it was -- it was sustained in one of our higher courts, but what I'm saying to you is that what I am saying which is that we need the evidence from previous -- that we need the in formation from going back beyond four years has also been sustained in a court, and so since the courts disagree and you and I are trying to work together to make new law, I'm just asking what the better public policy would be, and I'm suggesting that the better public policy would be that which sheds the greatest information that would bring about the most just result and that would, in my opinion, be that, if there's information or evidence that goes back beyond four years that would give the tenant an opportunity to recover not because we don't like the landlord but because the landlord is overcharging in this case, that I thought that

that would be the better public policy and that that probably reflected the intent of the original legislation.

SENATOR LEIBELL: Senator, if you can only recover for a four-year period looking backward, the information and the evidence which you allude to would be meaningless and would be only an exercise in keeping records. Whether or not they would show anything, it would not have -- would have absolutely no bearing on the ability of a tenant to recover for the period of time in those four years.

So it would really be a question of keeping records for no purpose which we have frequently required, I think in government in the past in various areas, but I would not wish to see extended here. There's no benefit to the tenant to keep those records. They will not increase their recovery if, in fact, they do accomplish one and achieve one, and they're certainly no benefit to the landlord.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR LEIBELL: Mr. President, I want to thank Senator Leibell.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: I think there is a benefit, and that's the reason that I have raised the questions. We are not in any way limiting the landlord's rights under the statute here. What we are doing is we are allowing for the existence of records that, if they really had no benefit and they really had no value and they really couldn't in some way assist the tenant, I'd suggest there would be no reason to pass a bill; but the records are not just ministerial. The records are reflective of conduct and, although we are not trying to extend the statute of limitations for which the tenant can recover, we are trying to, in many ways, document what conduct or what information may provide a court with what would be the documentation that would allow for a decision that could be in favor of the tenant, and that

information would be that the overcharge went back beyond four years and that the actual time of the overcharge existed from before the period in which the statute would allow the tenant to recover.

If we pass this legislation, and we in a sense eliminate the opportunity to look at these records, what we are inevitably accomplishing is to force the tenant to be in a sense going to court and negotiating in the dark because the information that might lead the court to realize that there is an overcharge existed prior to four years ago.

Now, the recovery shouldn't go back beyond four years, but certainly the investigation should because it in no way can hurt the landlord because the landlord can only be -- can only be charged for four years of rent overcharge. The landlord could be hurt if the information demonstrates that the landlord was overcharging in the first place and, if that's the case and the landlord broke the law, we have protected the landlord under statute for how far

the landlord can be penalized, but there's no reason to protect the landlord from discovery of the actual overcharge in the first place.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the bill? Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Those recorded in the negative on Calendar Number 1116 are Senators Abate, Connor, Gold, Kruger, Lachman, Leichter, Markowitz, Montgomery, Oppenheimer, Padavan and Paterson. Also Senators Onorato, Goodman and Velella. Ayes 37, nays 14.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR LEICHTER: Mr.

President.

ACTING PRESIDENT KUHL: Senator Leichter, why do you rise?

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative on Calendar 938, please.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 938.

Senator Nanula, why do you rise?

SENATOR NANULA: Mr. President, I too would like to express unanimous consent to be recorded in the negative on Calendar 938.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Nanula will be recorded in the negative on Calendar Number 938.

Senator Wright, why do you rise?

SENATOR WRIGHT: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1135.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Wright will be recorded in the negative on Calendar Number 1135.

Senator Goodman, why do you rise?

SENATOR GOODMAN: Mr. President, if I had been present yesterday afternoon when Calendar Number 681 was called, I would have voted in the negative, and may the record so reflect that, please.

ACTING PRESIDENT KUHL: Senator Goodman, the record will reflect that had you been present in the chamber yesterday when the roll call on Calendar Number 681 was taken, that you would have voted in the negative.

Senator Padavan.

SENATOR PADAVAN: Yes, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar 1135?

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Padavan will be recorded in the negative on Calendar Number 1135.

Senator Sears.

SENATOR SEARS: May I also be recorded in the negative on Calendar Number 1135?

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Sears will be recorded in the negative on Calendar Number 1135.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, I simply rise to welcome a couple of elementary schools, Danforth and Elmwood, to the Senate chambers, and they're going to watch how government works; and the only other thing I'm rising for is those of you in these chambers that enjoy jazz, this week end is the largest northeast jazz festival that we have that's free to everyone in the city of Syracuse. All week end, everything's free, some of the greatest entertainers that you'd ever want to see. It's as good as Marty Markowitz' performances in his district, maybe a little bit better. So I welcome all of you to my district for this free jazz festival.

ACTING PRESIDENT KUHL: Senator Tully, why do you rise?

SENATOR TULLY: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar 1135, please?

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Tully will be recorded in the negative on Calendar Number 1135.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar 1171, by Senator Libous, Senate Print 6990-A, an act to amend the Social Services Law, in relation to authorizing business corporations.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Libous, an explanation of Calendar Number 1171 has been requested by the acting Minority Leader, Senator Paterson.

SENATOR LIBOUS: Thank you, Mr. President.

What this bill basically does

would authorize business corporations other than corporations whose shares are traded on a national securities exchange to operate adult care facilities.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: If you would just yield to one question. I -- I've been concerned about the issues relating to private ownership. Can you just tell me what's the genesis of this bill, why this bill is important at this time?

SENATOR LIBOUS: Right now, Mr. President, New York State not-for-profits are able to operate adult care facilities. A couple years ago, I believe under Senator Holland's guidance along with a few other Senators in this chamber, there was some clean-up with adult care facilities.

There had been some reports that had been issued; there have been some real

problems. What this does is level the playing field and allows for-profit operations to now also be able to offer adult home care.

SENATOR DOLLINGER: O.K.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 52, nays one, Senator Montgomery recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Holland, we have a couple of motions if you'd like to take those at this time.

SENATOR HOLLAND: First, if you would recognize Senator Spano.

ACTING PRESIDENT KUHL: Return to motions and resolutions. The Chair recognizes Senator Rath.

SENATOR RATH: Yes, Mr. President. On page 62, I offer the following amendments to Calendar 994, Senate Print 7367. It is my bill, and and I ask that it retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 994 are received and adopted.

SENATOR RATH: Thank you, Mr. Chairman.

ACTING PRESIDENT KUHL: 944, excuse me.

SENATOR RATH: And on page 36, I offer the following amendments on behalf of Senator Maltese to Calendar 1198, Senate Print 3086-B, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments received and adopted. Bill will retain its place on the Third Reading Calendar.

Senator Rath.

SENATOR RATH: Additionally, Mr. President, one more time, I offer the following amendments to Calendar Number 1102, Senate Print 6332-A, on behalf of Senator Maziarz, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar 1102 are received and adopted. Bill will retain its place on the Third Reading Calendar.

Senator Spano.

SENATOR SPANO: Mr. President, I ask unanimous consent to be recorded in the negative on 11... Calendar 1116.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Spano will be recorded in the negative on Calendar 1116.

Senator Onorato, why do you rise?

SENATOR ONORATO: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 1135.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Onorato will be recorded in the negative on Calendar Number 1135.

Senator Saland, why do you rise?

SENATOR SALAND: For purposes of housekeeping, Mr. President. Would it be appropriate?

ACTING PRESIDENT KUHL: Absolutely.

SENATOR SALAND: I'd like to remove a sponsor's star from Calendar 274, Senate 3502-C, and would also like to place sponsor's stars on Calendar 479, which is Assembly 510-B, and Calendar 962, which is 7 - Senate 7061.

ACTING PRESIDENT KUHL: Calendar 479 and 962 will be starred at the request of the sponsor. The sponsor's star on Calendar 274 will be removed at the request of the sponsor.

Senator Marcellino, why do you rise?

SENATOR MARCELLINO: Mr.

President, if I may ask to be recorded in the negative on Calendar Number 1135.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Marcellino will be recorded in the negative on Calendar Number 1135.

Senator Holland, we had one last bill on the controversial calendar by Senator Goodman. Would you like to take that up at this time?

SENATOR HOLLAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar 1086, by Senator Goodman, Senate Print 7458, an act to amend the Tax Law, in relation to disclosure of tax returns.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator Goodman, an explanation of Calendar Number 1086 has been requested by Senator Leichter.

SENATOR GOODMAN: Mr. President,

this is a Tax Department departmental bill, the purpose of which is to promote ethics in state government by permitting the disclosure of tax returns and reports and particulars set forth in those returns and reports in circumstances where such disclosure would be necessary in administrative actions or judicial proceedings affecting the personnel rights of employees of the Department of Taxation and Finance and certain employees of the Department of Audit and Control, and also where it is necessary to subject such employees to criminal prosecution for offenses which threaten the integrity of the tax administration.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Mr. President, Senator Goodman, this sounds like a meritorious bill. I'm going to give you the opportunity to make it a great bill and to strike a real blow for open government and on behalf of the taxpayers of the state of New York by moving an

amendment which I've served on you and on the Majority and which is at the desk, and I ask that that amendment be called forth now.

ACTING PRESIDENT KUHL: Your amendment is at the desk, Senator Leichter. The reading of it is waived, and you are now afforded the opportunity to explain your amendment.

SENATOR LEICHTER: Good. Very simply, what my amendment does is to make corporate tax returns public and initially that may put some people back in saying, Well, my God, don't we have confidentiality on tax returns, something that is so private, so confidential. Yes, for you, for me, for individuals, but it should not be for corporations and indeed for many years the law of the state of New York was that corporate tax returns were made public.

Certainly a corporation doesn't partake of that sense of privacy that we afford to individuals. Now, why do you want to make corporate tax returns public? For very good

reason. For very good reason. Because we do not know at this time the amount that corpora tions pay. We know the total but we don't know the amount that individual corporations pay nor do we really know the effects of tax abatements and subsidies and other tax breaks that we give under our law.

It is my belief that General Electric, one of the state's largest corpora tions, a most profitable corporation -- I think it's total profits last year were four billion. I think it pays its president a salary that approaches a hundred million dollars a year. I don't believe that they pay any New York State corporate franchise tax because they take advantage of benefits that we've given; they take advantage of other loopholes in the law.

We have no way of judging the effectiveness or the consequences of these tax breaks unless these corporate returns are made public, and I tell you, you on the other side who like to speak about the rights of taxpayers and helping lift the burden of taxation from the

people of this state, one of the ways you could do it is to disclose corporate tax returns which will then guide the Legislature and the Governor in fashioning fair and responsible and workable tax policies for corporations.

There is no sanction at this time that should be accorded the corporate tax return. I'm just asking you to think about it. Why should we not know the taxes that corporations pay? If you want to eliminate Sub Chapter S corporations, I have no problem with that and they should probably not be included, but certainly larger corporations that, by their very nature, are publicly owned, I think that the public has a right to know what taxes these corporations pay or do not pay.

So, Senator Goodman, your bill which deals with a very limited area where we breach the confidentiality of tax returns for purposes of investigation to allow people to defend themselves would really become a most tremendous bill, would be a major effort on our part to open up government and to enable us to

fashion a workable tax policy.

Mr. President, I move the amendment.

ACTING PRESIDENT KUHL: Question is on the amendment. All those for the amendment, signify by saying aye.

(Response of "Aye.")

Opposed, signify by saying nay.

(Response of "Nay.")

In a close vote, the amendment is lost.

On the bill. Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Goodman would yield for a question.

ACTING PRESIDENT KUHL: Senator Goodman, will you yield to Senator Paterson? Senator yields.

SENATOR PATERSON: Senator Goodman, if, other than in situations involving fraud where the employee of the tax commission is obviously -- that the information is vital to the pursuance of an indictment, what I want to know is, are there any other types of

proceedings that the employee -- where the tax records would be open?

SENATOR GOODMAN: I'm sorry. I had difficulty hearing the question, Senator. Would you say it? There are other -- perhaps you could just repeat it briefly.

Mr. President, may we have some order in the chamber so I can hear the Senator, please? I guess it's a little quieter now.

Go ahead, Senator.

SENATOR PATERSON: To repeat the question to Senator Goodman, what other situations would be -- would the dissemination of the information be necessary other than say a fraud proceeding where there's an intent to establish criminality on the part of the employee?

SENATOR GOODMAN: Well, the essence of it is I don't think there would be many because the objective of the bill is to subject such employees to criminal prosecution where they're being subjected to criminal prosecution for offenses which threaten the

integrity of the tax administration or severely interfere with the integrity of the tax administration, in short where the Department determines that one of its employees is involved in hanky-pank of any kind which would have a criminal implication, they would then have the right to examine the tax returns to determine whether they have contain information that would be of relevance.

SENATOR PATERSON: Thank you, Senator Goodman.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: Perhaps if Senator Goodman is interested, he may just want to give us his reflections based on my observation. We just want to make sure that the tax policy over the years which has established the secrecy and the confidentiality of records that the individual taxpayer would maintain would not be violated for anything other than what would be a criminal investigation against

the employee or a criminal investigation against the specific taxpayer.

If there were proceedings against an employee, I would hate for the circumstance to become so speculative that perhaps all the tax records would be open that the employee worked on, to see whether or not the employee was at fault or was engaging in any kind of fraud.

So when there is a threshold and there is a need to examine these records and to make them available to a prosecutor or to a court, I certainly can understand what Senator Goodman is trying to achieve in this bill, and it's really quite meritorious.

My concern arises around the possibility that the records could be used as part of a wide investigation or in a sense a kind of hunting expeditious where there's the perception that fraud may exist but it's hard to exactly demonstrate where it is and at that point the records would be open and a number of people who would be paying their taxes and are

citizens of high standing have their confidentiality broken and their tax records examined.

If it is restricted to the specific situations where an amount of evidence meets the threshold test that there must be this kind of investigation and that this is vital to the conviction of individuals who broke the law, if it stays in that realm, then I think that the bill is quite fine.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

ACTING PRESIDENT KUHL: The chair recognizes Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Mr. President, I agree with Senator Goodman that the integrity of this Department is important. I'm

going to vote in favor of this bill. I would, however, suggest that there's one small thing that could be done which would improve the integrity of this Department, and that would be to repeal the current rules and regulations that allow the Commissioner to approve his own vouchers.

Recent published reports that were published this week end in my paper suggest that this Commissioner signed vouchers for himself so that he could go to political fund raisers for people in this chamber and in the other house, that he was submitting vouchers to have his suits pressed, and it seems to me that the integrity of this Department starts right at the top, and I would suggest that a little rule change, a little accounting change, probably good practice that says when you submit a voucher you have someone else sign off on it to make sure it's consistent with the Department and the best interest of the taxpayers in the state of New York.

Little tiny change like that

could go a long way to finishing off the high respect and integrity that this Department needs, it currently enjoys, and it should continue to maintain.

So this is a good step in that direction; I wish the Commissioner would do one other piece as well.

ACTING PRESIDENT KUHL: How do you vote, Senator Dollinger?

SENATOR DOLLINGER: Aye.

ACTING PRESIDENT KUHL: Senator Dollinger votes in the affirmative.

The Secretary will announce the results. Would the negatives on this bill raise their hands one more time?

THE SECRETARY: Ayes 54, nays 1, Senator Waldon recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Holland.

SENATOR HOLLAND: Mr. President, can we return to the reports of standing committees? I believe there's a report from the

Rules Committee.

ACTING PRESIDENT KUHL: There is one at the desk. I'll ask the Secretary to read after I recognize Senator Santiago.

SENATOR SANTIAGO: Thank you, Mr. President. I would like to be recorded in the negative on Calendar 1116, please. Thank you.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Santiago will be recorded in the negative on Calendar Number 1116.

Senator Mendez, why do you rise?

SENATOR MENDEZ: Thank you. I ask unanimous consent to be recorded in the negative on Calendar Number 938 and 1116.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Mendez will be recorded in the negative on Calendar Number 938 and 1116.

SENATOR WALDON: Mr. President.

SENATOR MENDEZ: Thank you.

ACTING PRESIDENT KUHL: Senator Waldon, why do you rise?

SENATOR WALDON: Thank you very much, Mr. President. I rise because I also ask unanimous consent to be recorded in the negative on 938 and 1116.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Waldon will be recorded in the negative on Calendar 938 and 1116.

Senator LaValle, why do you rise?

SENATOR LAVALLE: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1135.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator LaValle will be recorded in the negative on Calendar 1135.

Senator Smith, why do you rise?

SENATOR SMITH: Thank you, Mr. President. I would like unanimous consent to be recorded in the negative on Calendar Number 938 and 1116.

ACTING PRESIDENT KUHL: 1116?

SENATOR SMITH: Yes.

ACTING PRESIDENT KUHL: O.K. Without objection, hearing no objection, Senator Smith will be recorded in the negative on Calendar Number 938 and 1116.

Senator Saland.

SENATOR SALAND: Mr. President, I too would request unanimous consent for purposes of being recorded in the negative on Calendar 1135.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Saland will be recorded in the negative on Calendar Number 1135.

Senator Holland.

SENATOR HOLLAND: Rules Committee report, please, sir.

ACTING PRESIDENT KUHL: Secretary will read the Rules Committee report.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 7608, by Senator

Cook, an act to amend the Education Law and the Local Finance Law;

612, by Senator Stafford, an act to amend the Environmental Conservation Law;

935-A, by Senator Larkin, an act to amend the Navigation Law;

1633, by Senator Hoblock, an act authorizing the city of Albany to enact a locally established parking violations amnesty;

1999, by Senator Nozzolio, an act to amend the General City Law;

4254-A, by Senator Larkin, an act to authorize the town of Cornwall;

5143-A, by Senator Markowitz, an act authorizing the city of New York to reconvey its interest;

5958, by Senator Holland, an act in relation to discontinuing the Spring Valley toll plaza;

6009-B, by Senator Bruno, an act to amend the Environmental Conservation Law;.

6503-A, by Senator Larkin, an act to authorize the town of Blooming Grove, Orange

County;

6762-A, by Senator Saland, an act in relation to legalizing and validating the adoption of a bond resolution;

6959-A, by Senator Velella, an act authorizing the Commissioner of General Services;

And 7577, by Senator Levy, an act to amend the Real Property Tax Law.

All bills ordered directly for third reading.

ACTING PRESIDENT KUHL: Senator Holland.

SENATOR GOLD: Mr. President.

SENATOR HOLLAND: Mr. President, I move we adopt the report of the Rules Committee.

ACTING PRESIDENT KUHL: Motion is to adopt the report of the Rules Committee. All those in favor, signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response. )

The report is accepted. All bills reported directly to third reading.

Senator DiCarlo.

SENATOR DiCARLO: Mr. President, I ask unanimous consent to be recorded in the negative on Calendar 1135.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator DiCarlo will be recorded in the negative on Calendar 1135.

Senator Gold.

SENATOR GOLD: Mr. President, I ask unanimous consent to be voted in the negative on Calendar Number 938.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Gold will be recorded in the negative on Calendar Number 938.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, for one of the bills that was just read out of the rules Committee, so there's no page number, I offer the following amendments to

Calendar Number 1289, Senate Print Number 7577, and ask that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Nozzolio, I wish to call up Print Number 5965-B, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 461, by Senator Nozzolio, Senate Print 5965-B, an act to amend the Correction Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

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

ACTING PRESIDENT KUHL: Secretary

will call the roll on reconsideration. )

(The Secretary called the roll on reconsideration. )

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, please star the bill.

ACTING PRESIDENT KUHL: The bill is starred.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: I'd like to be recorded in the negative on 938 with unanimous consent.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Oppenheimer will be recorded in the negative on Calendar Number 938.

SENATOR HOLLAND: Any other housekeeping?

ACTING PRESIDENT KUHL:

Everything's taken care of.

Senator Holland.

SENATOR HOLLAND: Yes, Mr. President. Senator Bruno has requested a Majority Conference, very brief Majority Conference immediately following the close of this session.

ACTING PRESIDENT KUHL: There will be an immediate Majority Conference in the Majority Conference Room, Room 332. Immediate Majority Conference in the Majority Conference Room, Room 332.

Senator Holland.

SENATOR HOLLAND: Mr. President, there being no further business I move we adjourn until Monday, June 3rd, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until Monday at 3:00 p.m.

(Whereupon at 12:18 p.m., the Senate adjourned.)