ALBANY, NEW YORK

June 6, 1996

10:10 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their places, staff to find their places. Ask everybody to rise, including those visitors in the gallery, and join with me in saying the Pledge of Allegiance to the Flag.

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

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, June 5th. The Senate met pursuant to adjournment, Senator Kuhl in the Chair upon designation of the Temporary President. The Journal of Tuesday, June 4th, 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 SEWARD: Mr. President.

ACTING PRESIDENT KUHL: Senator Seward.

SENATOR SEWARD: Yes. On page 20, I offer the following amendments to Calendar Number 782, Senate Print Number 6538-A, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar 782 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Wright.

SENATOR WRIGHT: Mr. President, on behalf of Senator Stafford, I -- on page

number 44, I offer the following amendments to Calendar Number 1253, Senate Print Number 5761-C, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1253 are received and adopted. Bill will retain its place on the Third Reading Calendar.

SENATOR WRIGHT: On behalf of Senator Holland, on page number 20, I offer the following amendments to Calendar Number 772, Senate Print Number 6860, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 772 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Wright.

SENATOR WRIGHT: And on behalf of Senator Velella, please place a sponsor's star on Calendar Number 732.

ACTING PRESIDENT KUHL: Calendar Number 732 is starred at the request of the

sponsor.

SENATOR WRIGHT: Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I wish to call up Calendar Number 580, Assembly Print Number 9075.

ACTING PRESIDENT KUHL: Secretary will read the title.

THE SECRETARY: Calendar Number 580, by member of the Assembly Tokasz, Assembly Print 9075, an act to amend the General Business Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: I now move to reconsider the vote by which this Assembly bill was substituted for my bill, Senate Print Number 6097, on June 3rd.

ACTING PRESIDENT KUHL: Secretary will call the roll on reconsideration.

(The Secretary called the roll on

reconsideration. )

THE SECRETARY: Ayes 35.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: I now move that the Assembly Bill Number 9075 be recommitted to the Committee on Rules and my Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT KUHL: The Assembly bill is recommitted; the Senate bill is restored.

SENATOR MARCELLINO: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

SENATOR MARCELLINO: Thank you, sir.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, yesterday I was out of the chambers when a vote was taken on Calendar Number 1269, Senate 12-C.

Had I been in the chambers, I would have voted in the affirmative.

ACTING PRESIDENT KUHL: The record will reflect, Senator Skelos, that had you been in the chamber yesterday when a roll call was taken on Calendar Number 1269, that you would have voted in the affirmative.

Senator Saland.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, I wish to call up Calendar Number 479, Assembly Print Number 510-B.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 479, by member of the Assembly Christensen, Assembly Print 510-B, an act to amend the Real Property Tax Law.

ACTING PRESIDENT KUHL: Senator Saland.

SENATOR SALAND: I now move to reconsider the vote by which this Assembly Bill

was substituted for my bill, Senate Print 6145, on March 13th.

ACTING PRESIDENT KUHL: Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

ACTING PRESIDENT KUHL: Senator Saland.

SENATOR SALAND: I now move that the Assembly Bill Number 510-B be committed to the Committee on Rules and my Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT KUHL: The Assembly bill will be recommitted and the Senate bill will be restored.

Senator Saland.

SENATOR SALAND: Mr. President, I now offer the following amendments.

ACTING PRESIDENT KUHL: Amendments are received and adopted.

Senator Bruno, we have some substitutions at the desk.

SENATOR BRUNO: Please take up

the substitutions, Mr. President.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: On page 39, Senator Maltese moves to discharge from the Committee on Rules Assembly Bill Number 751-A and substitute it for the identical Third Reading Calendar 1152.

On page 45, Senator Hoblock moves to discharge from the Committee on Finance Assembly Bill Number 8751 and substitute it for the identical Third Reading Calendar 1288.

On page 45, Senator Tully moves to discharge from the Committee on Rules Assembly Bill Number 8833 and substitute it for the identical Third Reading Calendar 1290.

On page 46, Senator Maltese moves to discharge from the Committee on Codes Assembly Bill Number 9099, and substitute it for the identical Third Reading Calendar 1292.

On page 46, Senator Skelos moves to discharge from the Committee on Rules Assembly Bill Number 2274-B and substitute it

for the identical Third Reading Calendar 1293.

On page 47, Senator Alesi moves to discharge from the Committee on Rules Assembly Bill Number 2593-A and substitute it for the identical Third Reading Calendar 1302.

On page 47, Senator Cook moves to discharge from the Committee on Consumer Protection Assembly Bill Number 9814 and substitute it for the identical Third Reading Calendar 1305.

On page 47, Senator Present moves to discharge from the Committee on Rules Assembly Bill Number 10443-A and substitute it for the identical Third Reading Calendar 1306.

And on page 48, Senator Holland moves to discharge from the Committee on Investigations Assembly Bill Number 10572-A and substitute it for the identical Third Reading Calendar 1308.

ACTING PRESIDENT KUHL: Substitutions are ordered.

Senator LaValle.

SENATOR LAVALLE: Yes, Mr.

President. I'd like to place a sponsor's star on Calendar Number 1295, please.

ACTING PRESIDENT KUHL: Calendar Number 1295 will be starred at the request of the sponsor.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe there is a privileged resolution at the desk by Senator Roy Goodman. I would ask that the title be read and that we move for its adoption.

ACTING PRESIDENT KUHL: There is a privileged resolution by Senator Goodman at the desk. The Secretary will read the title.

THE SECRETARY: By Senator Goodman, Legislative Resolution honoring the School for Strings on its 25th Anniversary.

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 Bruno, that brings us to the calendar.

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

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

THE SECRETARY: On page 6, Calendar Number 274, by Senator Saland, Senate Print 3502-C, an act to amend the Real Property Tax Law, in relation to excluding certain expenditures.

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 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 392, by Senator Saland, Senate Print 3596-A, an act to amend the Family Court Act and the Social Services Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 7. 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 44.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 584, by Senator Cook, Senate Print 1304, an act to amend the Education Law, in relation to providing shared legal services.

ACTING PRESIDENT KUHL: Calendar Number 584 is not on the active list. That bill is laid aside. Secretary will read Calendar Number 594.

THE SECRETARY: Calendar Number 594, by Senator Sears, Senate Print 5973-C, an act to amend the Environmental Conservation Law, in relation to the recycling of used oil filters.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2.

SENATOR SMITH: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 637, by Senator Seward, Senate Print 5206-A, an act to amend the County Law, in relation to enhanced emergency telephone systems surcharge.

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 43, nays

one, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 739, by Senator Tully, Senate Print 6839-B, an act to amend the Soil and Water Conservation Districts Law.

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 751, by Senator Farley, Senate Print 6128, an act to amend the Vehicle and Traffic Law, in relation to eliminating the annual service charge.

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 776, by Senator Saland, Senate Print 1434-B, an act authorizing the Commissioner of General Services.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will read the last section, but lay the bill aside.

THE SECRETARY: Calendar Number 791, by Senator Rath, Senate Print 2779-A, an act to amend the Education Law, in relation to mandatory continuing education.

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 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 869, by Senator Saland, Senate Print 6894, an act to amend the Domestic Relations Law and the Family Court Act.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 900, by Senator Leibell, Senate Print 5019-A.

SENATOR LEIBELL: Lay aside for the day, please.

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

THE SECRETARY: Calendar Number 912, by Senator Farley, Senate Print 6221-A, an act to amend the Banking Law, in relation to granting to the Superintendent of Banks.

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 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 913, by Senator Farley, Senate Print 6222-A, an act to amend the Banking Law, in relation to the penalties which may be imposed.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1118, by Senator Spano, Senate Print 6091-A, an act to amend the Social Services Law, in relation to requiring investigations.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1119, by Senator Holland, Senate Print 6243, an act to amend the Domestic Relations Law, in relation to notification.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1122, by Senator Saland, Senate Print 6642, an act to amend the Family Court Act and the Social Services Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 7. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1146, by Senator Goodman, Senate Print 4688-D, an act to amend the Vehicle and Traffic Law, in relation to sealing motor vehicle repair shops.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1154, by Senator Velella, Senate Print 6497, an act to amend -

SENATOR VELELLA: Lay the bill

aside for amendment.

ACTING PRESIDENT KUHL: Lay the bill aside for amendment.

THE SECRETARY: Calendar Number 1155, by Senator Levy, Senate Print 6742-A an act to amend the Railroad Law and the Penal Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. 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 48, nays one, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1228, by Senator Stafford, Senate Print 612, an act to amend the Environmental Conservation Law.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1261, by Senator Larkin, Senate Print 7090-A, an act to establish the library district in the city of Kingston.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1277, by member of the Assembly D'Andrea, Assembly Print 9757, an act to amend the Tax Law, in relation to authorizing -

SENATOR BRUNO: Star that bill at the request of the sponsor, please.

ACTING PRESIDENT KUHL: Calendar Number 1277 is starred at the request of the sponsor.

THE SECRETARY: Calendar Number 1280, by Senator Kuhl, Senate Print 3356, an act to amend the Vehicle and Traffic Law, in relation to exempting any child.

ACTING PRESIDENT KUHL: Secretary

will read the last section.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1281, by Senator DeFrancisco, Senate Print 3519, an act to amend the Penal Law, in relation to the payment of reparations.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1282, by Senator DiCarlo, Senate Print 4358-A, an act to amend the Vehicle and Traffic Law, in relation to providing for the seizure and forfeiture.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1283, by Senator Maziarz, Senate Print 4804-A, an act to amend the Town Law, in relation to certain actions.

ACTING PRESIDENT KUHL: There's a local fiscal impact note at the desk. Lay the bill aside.

THE SECRETARY: Calendar Number 1284, by Senator Tully, Senate Print 4907-A, an act to amend the Penal Law, in relation to consecutive sentences.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1285, by Senator Holland, Senate Print 5418-A, an act to amend the Public Health Law, in relation to authorizing the Hudson Valley Emergency Medical Service Council.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1286, by Senator DiCarlo, Senate Print 5899, an act authorizing the city of New York to reconvey its interest.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary will

read the last section, but lay it aside.

THE SECRETARY: Calendar Number 1287, by Senator Rath, Senate Print 6049, an act to amend the State Administrative Procedure Act, in relation to regulatory flexibility.

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1288, by member of the Assembly Canestrari, Assembly Print Number 8751, substituted earlier today, an act to amend the Public Officers Law, in relation to activities by former state officers.

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 49.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1289, by Senator Larkin, Senate Print 6189-A, an act to amend the General Municipal Law, the State Finance Law, and the Municipal Home Rule Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1290, by member of the Assembly Connelly, Assembly Print 8833, substituted earlier today, an act to amend Chapter 294 of the Laws of 1994.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1291, by Senator Skelos, Senate Print 6373, an act to amend the Public Health Law, in relation to the applicability to the city of New York.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1292, by member of the Assembly Katz, Assembly Print 9099, substituted earlier today, an act to amend the Penal Law, in relation to graffiti removal programs.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1293, substituted earlier today, by member of the Assembly Brodsky, Assembly Print 2274-B, an act to amend the Environmental Conservation Law, the Parks, Recreation and Historic Preservation Law and the General Municipal Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1294, by Senator Johnson, Senate Print 6673, an act to provide retirement credit to Anthony A. Tafuri.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1296, by Senator Stafford, Senate Print 6745, an act to amend Chapter 583 of the Laws of 1995.

ACTING PRESIDENT KUHL: There's a home rule message 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1297, by Senator Larkin, Senate Print 6776, an act to amend Chapter 463 of the Laws of 1995.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 4. This act shall take effect April 1.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1298, by Senator Present, Senate Print 6791-A.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. Lay the bill aside.

THE SECRETARY: Calendar Number 1299, by Senator Saland, Senate Print 6794, an act to amend the Penal Law, in relation to criminal contempt.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1300, by Senator Tully, Senate Print 6838, an act to amend the Social Services Law, in relation to authorizing patient discharge.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1301, by Senator Alesi, Senate Print 6848, an act to amend the Penal Law and the Criminal Procedure Law, in relation to providing for a mandatory three-year minimum sentence.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 7. 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1302, by member of the Assembly Robach, Assembly Print 2593-A, substituted earlier today, an act to amend the Criminal Procedure Law, in relation to allowing family members.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 49.

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

(Senator Volker gestures.)

Senator Alesi, why do you rise?

SENATOR ALESI: Thank you, Mr. President. If I might just take a moment to explain my vote.

This is a very important bill not only for all people in New York State who might have been impacted by a situation where family members have been prevented from speaking at sentencing, especially in cases where there might have been a DWI and the defendant in that case was not charged with homicide. Under existing law, that would have prevented the family members from speaking at the sentencing.

We have a situation that occurred in Monroe County, and I'm sorry to say that that's happened across the state today. In the gallery are two people from MADD and two people who have been impacted by this kind of situation, Linda Campion and Mary Bissaillon, who are from Senator Bruno's district.

In voting in the affirmative and thanking my colleagues for voting in the affirmative as well, I'd like to recognize the

fact that this has done a great service for the families of people who have been victimized by the tragedy of driving while intoxicated and it will now allow those families to be present under new circumstances at the sentencing of those who are charged not with homicide but with some other crime that resulted in the death of a victim of that terrible tragedy of driving while intoxicated.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: Senator Alesi will be recorded in the affirmative on Calendar Number 1302.

The bill is passed.

SENATOR DOLLINGER: Mr. President.

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

SENATOR DOLLINGER: Like to explain my vote on that bill as well.

I want to commend Senator Alesi for picking up this bill. This was originally carried by Mary Ellen Jones, a bill that Mary

Ellen worked on. I think Senator Alesi has continued the tradition in Monroe County of seeking out and emphasizing the importance of victims' rights.

This was an issue that came up in Monroe County. I think it's one that we've all shared an interest in and I commend him for picking up the bill and getting it passed. I think it's an important thing for all the people of this state to do.

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

THE SECRETARY: Calendar Number 1303, by Senator Present, Senate Print -

SENATOR PRESENT: Lay it aside for an amendment.

ACTING PRESIDENT KUHL: Lay the bill aside for amendments.

THE SECRETARY: Calendar Number 1304, by Senator Johnson, Senate Print 7104-A, an act in relation to authorizing the county of Suffolk.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Secretary -

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1305, by member of the Assembly Magee, Assembly Print 9814, substituted earlier today, an act to amend the Agriculture and Markets Law, in relation to the sale of agricultural commodities.

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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1306, by the Assembly Committee on Rules,

Assembly Print 10,443-A, substituted earlier today, an act to amend the Executive Law, in relation to designation of the New York State POW/MIA Recognition Day.

ACTING PRESIDENT KUHL: The 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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1307, by Senator Nanula, Senate Print 7433, an act to amend the Local Finance Law, in relation to the private sale of bonds.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Senator Paterson, you want to lay this bill aside?

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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1308, by the Assembly Committee on Rules, Assembly Print 10,572-A, substituted earlier today, an act to authorize the sale of real property at the Letchworth Development Center.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1309, by Senator Seward, Senate Print 7508, an act to legalize, ratify and confirm certain proceedings and actions.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Lay the bill aside.

Senator Bruno, that completes the

reading of the non-controversial calendar.

SENATOR BRUNO: Can we, Mr. President, at this time take up the controversial calendar.

ACTING PRESIDENT KUHL: Secretary will read the controversial calendar beginning with Calendar Number 594.

THE SECRETARY: On page 14, Calendar Number 594, by Senator Sears, Senate Print 5973-C, an act to amend the Environmental Conservation Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Sears, an explanation of Calendar Number 594 has been requested by the Acting Minority Leader, Senator Paterson.

SENATOR SEARS: Last month we passed this bill by a vote of 58 to zero, and after it passed we were contacted by the Filter Manufacturers Association, which is an association that simply advises recyclers of this type of product.

Now, the only change that we made

was that "or dismantled and hot-drained or hot drained using an equivalent method to remove used oil" and the reason for the suggestion to do that, put that paragraph in there, was because a lot of these recyclers don't have crushers and, if they don't have a crusher, they couldn't do it the way that said, so we allowed them by adding this new amendment if they didn't have a crusher, they could dismantle and hot-drain or hot drain by using an equivalent method to remove used oil.

ACTING PRESIDENT KUHL: Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

Would the sponsor please yield for a couple questions?

ACTING PRESIDENT KUHL: Senator Sears, do you yield?

SENATOR SEARS: Yes.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR SMITH: Thank you.

Could you please explain to me how the oil will be removed and what will be done with the oil once it is removed?

SENATOR SEARS: Well -

SENATOR SMITH: How will it be disposed of?

SENATOR SEARS: I can't -- I didn't make out your question. Can you -- you want to know how they do it?

SENATOR SMITH: What will be the process of removing the oil and what -- how will it be disposed of?

SENATOR SEARS: Well, of course, currently there are no provisions at all in either state or federal regulations, to guarantee the recyclability of used motor filters. This bill would establish statutory requirements, but the -- I guess the answer to your question is that -

SENATOR SMITH: There are statutory requirements for the oil.

SENATOR SEARS: It would be hot drained and then it would be recycled per the

present law. If you're going to recycle oil, you have to turn it in to someone who is in the business of using that recycled oil, who would have to be licensed and be a bona fide receiver of that oil to properly dispose of it or if it had any value for recycling into another product or another use.

SENATOR SMITH: Would you - would the sponsor yield for another question?

ACTING PRESIDENT KUHL: Senator Sears, do you continue to yield?

SENATOR SEARS: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR SMITH: Are there not regulations on how motor oil is kept once it is removed from the product? Maybe if I -- what I'm trying to get at is most of these recycling companies do not have the wherewithal to store this if they're going to recycle, and it can become a safety hazard and many of these recycling plants are in our communities or the recycling yards are in our local communities and

this could become a danger to the community.

SENATOR SEARS: I guess the answer to that question, Ada, is this doesn't really -- what we're trying to do here doesn't really deal with what they're going to do with the oil once it's recycled. It deals with the actual recycling of the oil, and using this method. You see, they could do this if the filter doesn't contain any terne, which is a type of lead alloy and if the oil filter is drained and crushed. Whatever laws are presently in effect for storing used motor oil or anything else that would be recycled really doesn't affect -- have any effect on this bill. All this does is -- we had -- as I say, we had it passed once 58 to nothing and we were just asked to amend it for those people who didn't have crushers, and this doesn't really get into what happens to the used oil. That wasn't the purpose of the bill.

SENATOR SMITH: Thank you. Mr. President, one more question.

ACTING PRESIDENT KUHL: Senator

Sears, do you continue to yield?

SENATOR SEARS: Yes.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR SMITH: Well, wouldn't it be advisable to know when you're writing a bill how the outcome will affect the residents of the state of New York?

SENATOR SEARS: Well, if we - well, I would say that every tax bill we've ever passed would certainly have a bearing on that, how it's going to affect the residents of the state. This -- I don't think -

SENATOR SMITH: Well, I think we know how tax bills will affect us. I'm not saying that.

SENATOR SEARS: Yes.

SENATOR SMITH: What I'm saying is, you're the sponsor of this legislation.

SENATOR SEARS: Which was put in at the request of a recycler.

SENATOR SMITH: Well, don't you think you should have investigated a little to

know how it would affect? I mean it's very nice of you trying to help a recycler or help anyone else in our communities but it may have an overwhelming impact on others as well as the constituents which we were elected to represented?

SENATOR SEARS: Well, you're talking about what they do, how they store it. You're talking about used motor oil, is that correct?

SENATOR SMITH: That was the last time we were talking, yes.

SENATOR SEARS: Well, so your concern then is with used motor oil.

SENATOR SMITH: My concern is with the safety and health of those that we were elected to represent.

SENATOR SEARS: Well, are you saying that you don't agree with the present method that, if a person drains his own oil we'll say for example?

SENATOR SMITH: No, what I'm saying is I don't agree with what your bill is

doing since there is nothing in there that prevents -- that dictates how it will be treated and if they have to have the safety precautions to do so.

SENATOR SEARS: My understanding is that the safety precautions for used motor oil are already in place.

SENATOR SMITH: But there's nothing in this bill that precludes them from using something else, and it doesn't dictate what methods they will use.

SENATOR SEARS: That's correct.

SENATOR SMITH: Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Announce the results when tabulated.

THE SECRETARY: Ayes 50, nays

one, Senator Smith recorded in the negative.

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.

SENATOR PATERSON: Party vote in the negative.

SENATOR SKELOS: Lay the bill aside for the day.

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

THE SECRETARY: 1228, by Senator Stafford, an act to amend the Environmental Conservation Law.

SENATOR PATERSON: Explanation.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1261, by Senator Larkin, Senate Print 7090-A, an

act to establish a library district in the city of Kingston.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Larkin, an explanation of Calendar Number 1261 has been asked for by Senator Paterson.

SENATOR LARKIN: Senator Paterson, we have received a resolution from the City Council of the city of Newburgh, a letter from the mayor, asking us to afford the opportunity for the individuals utilizing the Kingston library, for them to make a decision whether they would have their own library, separating it from the high -- from the school district.

The school district wants this; the City Council has proposed it. This allows a referendum by the people who live in the city of Kingston to make that decision.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, if my good friend, Senator Larkin, would yield

for one and only one question.

SENATOR LARKIN: Very happy, Mr. President, to yield to the distinguished Acting Minority Leader.

SENATOR PATERSON: Senator Larkin, is there any cost involved? Is this going to be done by a tax basis, or is this going to -- is there a cost even involved in adopting this and, if there is, how are we going to -- how are we going to achieve paying for it?

SENATOR LARKIN: In this legislation, there is no cost, because what this legislation allows them to establish a vote on whether or not they will have a district.

SENATOR PATERSON: Mr. President, I could think of a number of more questions but, unfortunately, I'm a person of my word. I said there would be one question. So I guess I'll just sit down and wonder what I could have elicited if I'd had more time.

ACTING PRESIDENT DiCARLO: Read the last section.

THE SECRETARY: Section 8. This

act shall effect immediately:

ACTING PRESIDENT DiCARLO: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 51.

ACTING PRESIDENT DiCARLO: The bill is passed.

THE SECRETARY: Calendar Number 1280, By Senator Kuhl, Senate Print 3356, an act to amend the Vehicle and Traffic Law, in relation to exempting any child.

SENATOR KUHL: Mr. President.

ACTING PRESIDENT DiCARLO: An explanation has been asked for, I believe.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President.

This bill has one single purpose. Several years ago, we passed a bill that requires children under the age of 14 to wear helmets when riding bicycles. That presents a practical problem to some of my constituents, those people known as Mennonites

or Amish, who are required -

ACTING PRESIDENT DiCARLO: Excuse me, Senator Kuhl. Could we please have -

SENATOR KUHL: Are you asking the Majority Leader to sit down?

ACTING PRESIDENT DiCARLO: No, I didn't specifically ask the Majority Leader to sit down. Could we please have some quiet. Will the Sergeant-at-Arms please close the door.

Senator Kuhl.

SENATOR KUHL: Yes, and in my district, I have a fairly large Mennonite community and, as one of their religious tenets, they are required to wear hats if you're a male and bonnets if you're a female. Their primary mode of transportation is either by horse and buggy or by bicycle. They do not use motorized vehicles; and so what we have done in this state is to pass a law that really makes it very uncomfortable for them if they're to comply with the law and, at this point, we think as a state we recognize that we do not want to interfere

with their religious beliefs, but yet we are making criminals out of them by requiring them to wear helmets because they can't wear helmets if they're to comply with their religious beliefs.

So this bill, very simply put, would allow an exemption for those people who uphold their religious beliefs and part of that religious belief deals with their dress, their dress being that they're required to wear bonnets or hats to keep their heads covered.

SENATOR STACHOWSKI: Mr. President.

ACTING PRESIDENT DiCARLO: Senator Stachowski.

SENATOR STACHOWSKI: Would Senator Kuhl yield for a question?

ACTING PRESIDENT DiCARLO: Senator Kuhl, will you yield?

SENATOR KUHL: Absolutely.

ACTING PRESIDENT DiCARLO: Senator yields.

SENATOR STACHOWSKI: Senator, I

don't have any trouble with religious freedoms of these people, but what do we do about the safety issue? The reason we passed the helmet law was for the safety of bicycle riders and what is supposed to be our feeling if we then now pass this exemption and some of these people happen to fall and become involved in bicycle accidents and become injured, and it's pretty much our fault because we're making this exception, although -- albeit religious.

SENATOR KUHL: Well, Senator Stachowski, number one, I would be interested in any statistics that you might have that you could provide us that would suggest to us that in this particular community these people are in danger of having accidents that are going to cause them significant or serious harm. I'm not aware of that.

What I am seeing is the law that we have passed in this house that actually interferes with their existence, their belief, their being, and they have not requested this law. As a matter of fact, they have requested

relief from this law. They don't want to -- and they're not concerned about the safety in their particular community. They don't have any incidence of traffic accidents with bicycles that, in fact, they're concerned about.

They're concerned about being made criminals by the imposition of a state law that puts them in a position where they can't comply with their religious beliefs and their religious doctrines, and there is no -- no factual evidence or information that has been brought to me by these people or anybody else that would suggest, in fact, that there is a safety hazard that needs to be dealt with.

SENATOR STACHOWSKI: Mr. President, if Senator Kuhl would yield?

ACTING PRESIDENT DiCARLO: Senator Kuhl, do you continue to yield?

SENATOR KUHL: Be happy to.

ACTING PRESIDENT DiCARLO: Senator yields.

SENATOR STACHOWSKI: Not being a medical expert or not being a safety expert,

Senator, my question merely would be then that since I do not have these statistics then, I assume that since this is your position that you're telling us that if these particular people fall off their bike and their head snaps into the ground, they probably won't be injured. The bicycle helmet is designed so that if your head snaps into the ground, the helmet will protect the blow kind of like a football player getting hit in the head and with the helmet he's less likely to have severe injury than without it, and I think it's a medical fact that it's pretty easy for even a fall to cause enough impact that your head hitting the ground, even ground, not necessarily pavement, can cause a substantial injury, and the only purpose for the bicycle helmet was to try to alleviate the risk of those kind of injuries and the medical expenses and the pain and suffering that go along with those kind of injuries and that's - the only question I have is, I'm not saying that this happens all the time there.

I'm just saying that we are now

putting them in an exposure that we tried to take young children out of, so my question is you don't feel that if these people ever fall or if they, in fact, do fall their heads don't get injured by the blow of the ground.

SENATOR KUHL: Senator Stachowski, the information that was given to me by the people in this community is that they are not concerned about the, quote/unquote, potential safety factor that you perceive is a problem. They don't have any -- and suggested to me that they have no incidence of need that the law requiring helmets really needs to be addressed or dealt with in their community.

These people, for instance, if you've ever dealt with the Amish or the Mennonite communities, you know that these are not people who go out and buy the most deluxe, the fastest bicycles. As a matter of fact, if you were to look at their bicycles, you would have thought that they probably purchased them about 70 years ago, and that they might go 5 or 6 or 7 miles an hour. It's just a mechanism by

which they can move from one place to another. These are not racing bicycles; they are not high tech' bicycles.

These are not people that put themselves at risk; yet, what we have done as a government that seemingly knows all and wants to protect all, is create a potential problem and amazing difficulty for them. We have put them in a situation where we have made criminals out of them for complying with their religious beliefs. I don't think that's right; they don't think it's right, and they want some relief.

ACTING PRESIDENT DiCARLO: Senator Stachowski.

SENATOR STACHOWSKI: On the bill.

ACTING PRESIDENT DiCARLO: On the bill.

SENATOR STACHOWSKI: I'm not going to vote against this bill. I'm going to support the bill, but under Senator Kuhl's explanation, then it would only be logical that the motorcycle people will come in and say, you

know, We don't feel in our circumstances that we need to wear helmets because we're not worried about getting injured. We're not concerned about any injuries to our heads. We feel that it's an infringement on our civil rights and our personal rights as U. S. citizens, when the fact is that there's medical documentation in that area too that says that if you fall off a motorcycle, this helmet may prevent some injury from happening that might not have happened if you wore the helmet. Not saying that you won't be injured anyway, and the speed of the bike in this case doesn't make any difference.

I'm going to bend to the religious freedom on this one, but I must point out it doesn't matter how fast you're going. If you fall and your head hits the ground in a certain position, you're hurt, and you're hurt seriously, and I just feel bad that we're going to put these people into that exposure, but I'm going to support it since Senator Kuhl pretty much assures us it's not going to happen.

ACTING PRESIDENT DiCARLO:

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. I want to apologize for standing while Senator Stachowski was talking. I didn't mean to be confused with any other state officials.

Would the distinguished Senator yield for a question?

ACTING PRESIDENT DiCARLO: Senator Kuhl, will you yield to a question? Senator won't yield.

SENATOR PATERSON: The Senator -

ACTING PRESIDENT DiCARLO: The Senator will yield.

SENATOR KUHL: The Senator was being distracted momentarily, but the Senator yields.

SENATOR PATERSON: Thank you, Senator.

Senator, there are a number of regulations which we have in this state such as seat belts, which I'm sure you and I would agree we should all use but, for a period of time seat

belts were made available and people just didn't use them and then basically we had to regulate the use of seat belts, and I would say that the helmets are akin to that, and that anybody riding a bicycle would seemingly be reasonable to assume it would be a lot safer to wear the helmets and then in the specific situation we have had to regulate that.

So what I'm -- what I'm asking you is, since there is a substantial number of individuals who live in your district who are in the Mennonite community, is there not a possibility that those who don't want to wear the helmets would then adorn the wear -- and we're talking about children, so a lot of this they might regard as somewhat callow, but at the same point in time, it is a safety hazard that they might adorn the religious wear to avoid wearing the helmets, which everybody finds to be somewhat uncomfortable?

ACTING PRESIDENT DiCARLO: Senator Kuhl.

SENATOR KUHL: Well, Senator

Paterson, I don't know whether you've ever experienced meeting and talking with a Mennonite community or an Amish community, but you -- if you did, you would know that these people are very conscious about their being, very careful about what they do. They are not reliant upon the government. They don't participate in lawsuits. Many of them do not vote. In fact, most of them do not vote.

If, in fact, they were to fall off a bicycle or if, in fact, they were to fall off a ladder or if, in fact, they were to fall off a wagon which was being drawn by a horse, you would find it highly unlikely that they would go and look for any kind of government compensation. They would, in fact, take care of themselves, their own, by their own means.

So when you start to deal with this issue and you start to deal with safety and Senator Stachowski has indicated, well, fine. If you just fall off a bicycle you're going to get hurt. I would submit, well, if you just fall down, you might get hurt, and I guess the

corollary would be in this particular case where there is no experience, no incidence, where we're suggesting that there might be some safety hazard that maybe we should require everybody, those of you, you and I who walk around here, to require us to wear a helmet because we might fall down.

I think that's overkill. In this particular case, what we have done, and that's the reason for the bill, is the fact that we have made outlaws out of these people. We have said is to them, O.K., You cannot -- you cannot continue your religious beliefs, and part of that is dress; part of that is covering up, O.K., "covering up" meaning that the women wear bonnets, the men wear hats. I have never seen a Mennonite without a hat; I have never seen a Mennonite woman without a bonnet. That is part of their religious belief, and so what we have done is we either force them to be outlaws or turn their back on their religion.

What this bill says, Fine, we were interfering with you carrying out your

religious beliefs. We don't want to do that, so we'll give you a special exemption. Certainly -- certainly these people, if they felt that there was some safety problem could voluntarily by themselves, wear a helmet, but what we have done is we have told them they have to wear a helmet and they have to do this or else they are in violation of the law. So we have put them in a position as most of us say between a hard - between a rock and a hard place. We've put them in an impossible position, and what this law does is try to take us back and acknowledge the fact that they have their beliefs, they have their rights to practice their religion and, in fact, they should be allowed to do that.

ACTING PRESIDENT DiCARLO:

Senator Paterson.

SENATOR PATERSON: Mr. President, if the Senator would continue to yield.

ACTING PRESIDENT DiCARLO:

Senator, do you continue to yield?

SENATOR KUHL: I'll be happy to yield.

ACTING PRESIDENT DiCARLO:

Senator continues to yield.

SENATOR PATERSON: Senator, you've raised some interesting issues and some compelling ones, and I think you have informed many of us who don't -- have not had the experience of meeting with the Mennonite community and other elements of the Amish community in the state. You've taught us a great deal just from your remarks. But first of all, I get the impression that you may feel that the law itself is excessive, and I'm not going to dispute it because, as Senator Stachowski was unable to, I can't give you the statistics that would -- that would validate that perhaps the law itself needs to be changed. So if you would try to understand the position that those of us are in as we're examining your legislation and would like to be of service to this community, what I'm saying to you is, we feel that there is a standard that has been set, that's uniform around the state, and that what we have happening is that there's now a loophole that

doesn't speak to the conduct of the Mennonite community but speaks to the conduct of just children who don't want to wear the helmet, who might be in any area but may be specifically in an area where there is a large contingent of religious group that wears a certain headwear and decides, these younger people, that they don't want to wear the helmet so they adorn the headwear of the religious society and then decide that they're going to ride around in it, in a sense making a mockery out of the law, and that was my question prior and, if you could just give me your reflections on that, then I have a suggestion to you which I think might make it possible to -- for us to pass your bill with a slight change.

SENATOR KUHL: Senator Paterson, again let me take you back to an experience that I have had with the Mennonite community, and I mentioned it and -

SENATOR PATERSON: If I could interrupt, Mr. President, for just a second. What I wasn't talking about was how the

Mennonite community, which seems to have an extremely high standard of conduct and responsibility -

ACTING PRESIDENT DiCARLO: Excuse me, Senator Paterson. I'm going to ask for quiet again in the chamber. Can everyone take their conversations outside. Let's listen to the Senators. Excuse me, Senator Paterson. Go right ahead.

SENATOR PATERSON: Thank you, and excuse me, Senator Kuhl, because I just wanted to -- to focus on the question that I'm really trying to get an answer is that the Mennonite community apparently has an extremely high standard of conduct and responsibility and is basically independent, but what I'm asking you is about the other neighborhoods where kids are kids and when they see that somebody found a way to get around wearing the helmet are going to perhaps mimic it and in a sense reduce the strength of the law.

SENATOR KUHL: Excuse me. Senator, I understand what you're saying and

that is certainly -- I guess, if somebody in today's world said that wearing a baseball cap is part of their religious tenet and, in fact, that, because they had to wear their baseball hat in reverse order as we see many of our kids today that said they were supporting the Chicago Bulls or whatever, and that was part of their religious tenet, I think that anybody who was in a position of adjudicating the actual citation that was delivered to that child for not complying, O.K., would in fact, I think, understand that that isn't part of a religious tenet.

But you, if you have, again, dealt with a community like the Mennonite community, you know that it is there in writing. O.K. This is a long-established factor. This is what they have done for years, so for somebody to just say, Well, I am going to wear this hat so that I won't have to wear a helmet, I think would be a ridiculous way to approach the issue, and I don't think that anybody who was going to adjudicate the citation

that was eventually delivered to these people would, in fact, uphold that.

ACTING PRESIDENT DiCARLO: Excuse me.

SENATOR KUHL: So I'm not as concerned about somebody going around or trying to work within this law. I think people generally understand that if, in fact, you're required by law to wear helmets, you do that about if you are a part of a religious sect, Amish, Mennonite, whatever it happens to be, that requires you to wear a hat or a bonnet, that in fact, you will be excused from wearing a helmet.

As it is right now again, as I mentioned, these people are not wearing helmets and what we've done by adopting the law is make criminals out of them.

ACTING PRESIDENT DiCARLO: Excuse me Senator Kuhl, Senator Paterson. Senator Lachman, why do you rise?

SENATOR LACHMAN: I would like to ask some questions for purposes with some

information -

ACTING PRESIDENT DiCARLO: First, Senator Lachman. Senator -- Senator Paterson, do you yield to Senator Lachman?

SENATOR PATERSON: By all means, Mr. President.

ACTING PRESIDENT DiCARLO: Senator Lachman.

SENATOR LACHMAN: Thank you, Senator Paterson. This is a very complex issue and it's made more complex by the fact that you have two positive givens here, and this frequently happens in our society because the First Amendment and religious liberty.

A similar though different case occurred in the state of Wisconsin, Senator Paterson and Senator Kuhl, in 1971. It was called Yodl v. Wisconsin and the issue at hand was should an exemption be made for the Amish population of Wisconsin not to abide by the compulsory education law of the state after the eighth grade. That is, everyone else has to attend high school, but because of the religious

beliefs of the Amish, an exemption or an exception was made for them by the state of Wisconsin and unheld by the U. S. Supreme Court.

Now, similar cases have been cited by the federal courts in terms of blood transfusions for Christian Scientists, et cetera. This is a much more complex issue than I realized when I looked at it. I thought it referred to Orthodox Jews wearing skull caps. Well, you can easily put a helmet on top of that, but in terms of the Mennonite population, because this is a hat, you cannot do that as easily.

ACTING PRESIDENT DiCARLO: Excuse me, Senator Lachman. Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, if Senator Lachman would yield just for just one second because that was exactly the point I was -- wanted to make to Senator Kuhl, and I wanted to ask if Senator Kuhl would yield to -

ACTING PRESIDENT DiCARLO: Well,

you don't have the floor, Senator Paterson. You yielded the floor to Senator Lachman. Do you have a question of Senator Lachman or, Senator Lachman, would you yield back?

SENATOR LACHMAN: I would yield back to my distinguished colleague from the borough of Manhattan.

SENATOR PATERSON: Thank you, and I will yield back to Senator Lachman, because his information is quite informative, but just very quickly to Senator Kuhl, I was wondering if you might consider laying this bill aside and rewriting the bill specifically to address the concerns of the Mennonite community in your district because I think that would alleviate some of the confusion that we're going to have in other elements of the state where we have a number of different religious organizations or religious groups, the RasTifarians who wear braids and wear the braids up in a hat, and it could be very difficult to figure out who is or who is not, and it wouldn't be the same as wearing a Chicago Cubs hat. In other words, it

would almost make it possible for large numbers of young people to ignore our state law and, if we're not going to change the state law itself, if we do recognize the need for helmets in bicycle riding safety, I was wondering if since the situation in your case, as Senator Lachman so appropriately pointed out, is so specific to your district, if not we just write a law specifically that would apply to them.

SENATOR LACHMAN: Well, Senator, the -

ACTING PRESIDENT DiCARLO: Senator Paterson has asked Senator Kuhl a question.

SENATOR KUHL: I would yield to Senator Lackman for the answer to that. I think he's perhaps more legally adept at answering something like that. I'm not sure that we can isolate one particular religious group. I think we have to deal with the issue generally. I'm not so sure that whether or not what Senator Paterson is suggesting wouldn't be a violation of constitutional rights, but perhaps Senator

Lachman would like to address that issue and answer Senator Paterson's question better than I can.

ACTING PRESIDENT DiCARLO: First, address the Chair first. First, we have a list of people who wish to speak.

SENATOR KUHL: Who is on first, by the way, Mr. President?

ACTING PRESIDENT DiCARLO: We have a list of people who have asked to speak, so what we're going to do is take up Senator Lachman's answer to the question and then we have Senator Dollinger who has asked to speak and Senator Tully.

So Senator Lachman.

SENATOR LACHMAN: Senator Kuhl, I believe -- think it would be feasible to do that if we had Senator Lack and Senator Leichter, who was the chair and -- and I believe the ranking member of the Judiciary Committee look into this.

In the Yodl v. Wisconsin case there was a general principle for religious

liberty opposed to the tyranny of the majority which were one in the Federalist papers, and then there was an exception made specifically for the Amish population, and I think we could do this perhaps in rewriting this legislation as well; but it is a complex piece of legislation.

At the same time, I understand the situation of the Mennonites and would bend over backwards to give them their right as a religious minority in our society which believes in religious diversity, and many times those of us who espouse the First Amendment forget that the First Amendment mentions two things: One that America should not have an establishment of religion and, two, that there should be the free exercise thereof, and in this sense I think we are protecting the free exercise of the religious right of Mennonites.

So I'd like to, with Senator Paterson, and the -- perhaps the respective judicial heads of our respective parties work out this measure so that they would receive what is coming to them as citizens of the United

States and as Mennonites as well as protecting their physical well-being.

ACTING PRESIDENT DiCARLO: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. With that understanding, why don't -- because we are coming close to the end of session, rather than take up time in debating the issue and a serious question has been raised and as long as Senator Lachman is supportive of the concept of giving the Mennonite community, and I assume Senator Paterson is too, relief, then I have no problem with working with them in an attempt to try to rewrite the bill so that it meets exactly the needs of the Mennonite community.

So why don't we lay the bill aside until next week when we can revisit it if, in fact, we can't work something out.

ACTING PRESIDENT DiCARLO: If we might just, Senator Kuhl -- Senator Dollinger, did you wish to speak before we lay it aside? I know they want -

SENATOR TULLY: I suggest -

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

SENATOR TULLY: Mr. President, would Senator Kuhl yield to a question?

SENATOR KUHL: I'd be happy to yield.

SENATOR TULLY: Senator Kuhl, in connection with your question, your statement about the adjudication of this bill and its intent ultimately, as we know when the court seeks to determine what the legislative intent of a bill is, the court looks at the bill jacket which includes the bill, the memo, and any other material that might be sent forward to the Governor in connection with that bill.

Would it not be possible for you to make a statement in your memo and in forwarding the bill, assuming it were passed by this house, a copy of the record in which you clearly reflect that the bill is intended to apply only to the Mennonite community?

SENATOR KUHL: I think we could

probably do that, Senator. My thought was that we may end up doing that next week if, in fact, there is no better offer as far as language goes. So what I'm willing to do is to accept the input from Senator Lachman, Senator Paterson, anybody else, Senator Dollinger, anybody else who wants to offer some constructive ways in which we can accomplish my intended goal through this bill.

So I would like to, Mr. President, lay the bill aside for the day.

ACTING PRESIDENT DiCARLO: The bill is laid aside.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT DiCARLO: Senator Paterson, why do you rise?

SENATOR PATERSON: Before we -

ACTING PRESIDENT DiCARLO: The bill has already been laid aside.

SENATOR PATERSON: On the lay aside, Mr. President.

ACTING PRESIDENT DiCARLO: Pardon

me?

SENATOR PATERSON: On the bill, Mr. President.

If I might, having made the suggestion to Senator Kuhl, I just wanted to assure him that in addition to the First Amendment right of religious expression, what I thought that changed my mind actually from his presentation was when he established not just that there was a religious expression but the fact that the individuals who are expressing it have a specific kind of a culture in which they don't really have that many incidents, in other words he doesn't know of any cases where it actually happens and he pointed out that the bicycles that they use are somewhat antiquated, that they don't even go very fast and they're in an area where he doesn't think that there are any injuries, so since the spirit of the law was to establish the -- the bicycle safety and he has demonstrated in this very specific instance that there is no safety problem, I think that the value of religious expression should be

favored over the one of public safety and that a specific exemption be made for this particular group, not because necessarily it's just a religious expression because, as Senator Lachman pointed out, there are other groups but because this group can establish that they don't actually -- they don't run the risk of that situation.

I think the bill would have to be -

ACTING PRESIDENT DiCARLO: Senator Skelos, why do you rise?

SENATOR SKELOS: I don't want to interrupt Senator Paterson, but I think that bill has been laid aside. Perhaps we should move on.

ACTING PRESIDENT DiCARLO: Senator Skelos is correct, Senator Paterson. We can move on.

SENATOR SKELOS: Only because I think when a bill is laid aside or we've completed a vote, we should move on and not set a precedent where we can get up and just speak

on a bill that just passed or was laid aside and move on to the next bill. It's a most eloquent statement you're making, but I think we should move ahead unless you want to debate laying aside the bill.

SENATOR PATERSON: No, Mr. President, but the last thing I wanted to hear was Senator Skelos describing it as an eloquent presentation. If he wanted me to sit down and he's not interested in what I have to say, then we will lay the bill aside and we'll go on to the next bill.

ACTING PRESIDENT DiCARLO: Secretary will read.

THE SECRETARY: Calendar Number 1283, by Senator Maziarz, Senate Print 4804-A, an act to amend the Town Law, in relation to certain actions.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT DiCARLO: Explanation has been asked for by Senator Leichter. Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr.

President.

Mr. President, this bill would do something that many of us in this chamber talk about and that is give mandate relief to local town governments. It repeals various sections in the Town Law that require towns to seek permission of the state Comptroller to expand or create water, sewer and fire districts within the town.

What often happens, Mr. President and Senator, is that the town will spend a great deal of time and a great deal of effort in engineering and legal services and costs, get a project in the "go" stage and they will be held up for sometimes several months awaiting for approval from the state Comptroller's office.

The Comptroller, of course, still maintains his audit functions over all town appropriations and local government appropriations during the normal course of the audit that the state Comptroller does.

I understand in my research of this bill that the genesis of this law was in

the post-depression era, when counties were ultimately responsible for any debt incurred by towns located within the county. Since that provision was eliminated from the law many, many years ago, seems like it is long overdue to also strike this clause.

ACTING PRESIDENT DiCARLO: I neglected to say we have a statement of financial impact.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. If Senator Maziarz will yield, please.

ACTING PRESIDENT DiCARLO: Senator Maziarz, will you yield to Senator Leichter? Senator yields.

SENATOR LEICHTER: Senator, I find some grounds and, as you explained, for the bill. I understand it. What is the position of the Comptroller on this bill? Have you checked this bill with the Comptroller's office? Do you have some comment from them?

SENATOR MAZIARZ: I have not

received any memo in opposition. I have not checked directly with the Comptroller himself. I know when I requested expeditious handling of some requests from the towns within my district, and I've spoken to some counsels in the Comptroller's office, they questioned me as to why they have to do this anyway and what their expertise is in the area of fire districts, water and sewer districts to begin with, Senator.

SENATOR LEICHTER: Would Senator Maziarz -

SENATOR MAZIARZ: There is no open memo in opposition from the Comptroller.

SENATOR LEICHTER: Yes, Mr. President, if Senator Maziarz will continue to yield.

ACTING PRESIDENT DiCARLO: Senator Maziarz, do you continue to yield?

SENATOR MAZIARZ: Surely, Mr. President.

ACTING PRESIDENT DiCARLO: Senator yields.

SENATOR LEICHTER: I don't see any memo in opposition, but it just seems to me we ought to ask the Comptroller what are the reasons for doing this, what benefits are there and he may very well agree with the bill, and I'm going to ask you to lay it aside and just check with the Comptroller. I'm going to urge you to do it. If, for some reason, you can't I'd be happy to do it, but I think we'd all feel more comfortable knowing that the Comptroller's office has, in fact, approved this bill.

I mean, as you and I know, allotted of bills get put in, you don't always get offices that are affected by bills commenting on bills because they have no reason to know that the bill is going to be moved, so let's just check with him. If he says the bill's a good bill, I'd be happy to vote for it. If he says, it's not a good bill, let's see what his reasons are. I may still vote for the bill, but I think we ought to get his opinion on it.

SENATOR MAZIARZ: Senator, I -- I

do think, Senator, because the Comptroller is a very competent individual, he has a very large staff. And I'm sure that he knows what's going on in this house of government and that, if he was opposed to this bill, I think that he probably would have issued a memorandum in opposition.

SENATOR LEICHTER: If you'll excuse me.

ACTING PRESIDENT DiCARLO: Senator Leichter. Senator Maziarz, will you yield?

SENATOR LEICHTER: I'm advised by counsel that they checked with the Comptroller's office, and he said they had no objections to the bill. I'd be very happy to vote for the bill.

SENATOR MAZIARZ: Thank you very much, Senator Leichter.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 21. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number -

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: 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, immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

Secretary will continue to call the controversial calendar.

THE SECRETARY: Calendar Number 1284, by Senator Tully, Senate Print 4907-A, an act to amend the Penal Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator

Tully, an explanation has been asked for by Senator Paterson.

SENATOR TULLY: Thank you, Mr. President.

This is a significant piece of legislation in the fight against crime. It's legislation introduced at the request of the Nassau County District Attorney's Office, sponsored in the Assembly by Assemblyman DiNapoli.

It does two things, Mr. President, amends subdivision 2, Section 7025, of the Penal Law in providing that when a defendant receives separate sentences for multiple homicides or multiple assaults committed through a single act or omission, these sentences must run consecutively and it also amends subdivision 1 (e) of section 7030 of the Penal Law, the sentence merger statute, and removes the cap on sentencing for two or more crimes other than a Class A felony.

ACTING PRESIDENT KUHL: Senator Abate.

SENATOR ABATE: Would Senator Tully yield to a couple questions?

ACTING PRESIDENT KUHL: Senator Tully, do you yield for a question from Senator Abate?

SENATOR TULLY: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR ABATE: Senator Tully, I agree with you that there are some situations that absolutely warrant consecutive sentences and there's -- in your justification memo, you cite a number of very egregious situations where a person should be locked up as long as humanly possible.

My concern is, Senator Tully, did you consider substituting "may" to -- instead of "must", "may", so a judge in his or her discretion, when there is an egregious case or a heinous case like the ones that are cited in the justification memo, that judge would have the authority to sentence a defendant to consecutive

time, but if you have "may", you then leave the authority to the judge in those less egregious cases where there are mitigating circumstances, the time might be concurrent? Did you give some consideration instead of "must" that "may" would have been substituted?

SENATOR TULLY: Yes, Mr. President. Senator Abate, we did and in reviewing it, we ascertained that appellate review is available in the event there is a situation where there might be an excessiveness of sentence.

SENATOR ABATE: But then you, in so doing, aren't you then substituting the power of the judge to make a decision about what the appropriate sentence is and taking that authority away from the judge and saying, if it's unjust, let the Appellate Division decide it's unjust?

SENATOR TULLY: That's not unusual, Senator Abate. As I know you are a practitioner of criminal law, as I have been, been a prosecutor and a defense attorney, and I

have no problem with that. I think the public is better served by virtue of the fact that someone who is intent on committing a crime is aware of the fact that there definitely will be a consecutive sentencing situation if they involve themselves in something like a multiple offense such as the Happy Land Social Club or the Long Island Rail Road massacre with Colin Ferguson.

I think if they know beforehand that they're going to face multiple consecutive sentences they'll think about it a little more and I think that's the reason the "must" is in the statute.

SENATOR ABATE: You would -- Mr. President, if Senator Tully would continue to yield.

ACTING PRESIDENT KUHL: Senator Tully, do you continue to yield?

SENATOR TULLY: I do.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR ABATE: I absolutely

agree with you cases like the Happen Land arson case, that defendant deserves an enormous amount of time and there are other instances; but, Senator Tully, can you conceive of a situation where a judge, a first time offender, and when you're talking about a violent felony that includes burglaries, it includes lots of different things. We're not just talking about assaults, a series of assaults and murders; we're talking about all violent felons.

Can you conceive of a situation with a first time person maybe a concurrent sentence would be sufficient? Someone's going to prison and the judge determines and the district attorney also determines a concurrent sentence is appropriate? This law would not give the ability for the D.A. and the judge in that instance to plea bargain that matter in a concurrent fashion.

SENATOR TULLY: Yes, Mr. President. The D.A. always has the ability to plea bargain. That's before sentence. This is after sentence. This is when sentence is being

made after a conviction. A district attorney, at any time either prior to the case being tried or during the course of trial prior to there being a judgment, has the opportunity to plea bargain; but I believe that when someone is tried by his peers and is convicted of crimes of this nature that the maximum punishment should be exacted, and that's why the statute reads the way it does.

SENATOR ABATE: Oh, then one other question.

ACTING PRESIDENT KUHL: Senator Tully, do you continue to yield?

SENATOR TULLY: I do, Mr. President.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR ABATE: This does not just cover then -- this only covers convictions as a result of a trial, not a conviction as a result of a plea?

SENATOR TULLY: This deals with sentences, Senator Abate, if you read it

carefully. It deals with sentences.

SENATOR ABATE: So that means that someone could take a plea prior to trial to a number of counts and, as a result of that plea, not necessarily a conviction after trial, the sentence then would be a consecutive sentence, it's not because of a conviction after trial necessarily.

SENATOR TULLY: Yes, I mean for those bleeding hearts who might sympathize with someone like, for instance, Mr. Lent who is coming in here from another state and he can take a plea, yes, but in cases involving serious crimes such as the ones here, multiple crimes like the Westbury Diner incident, I don't think there should be any sympathy. I don't think there should be any room to bend or flex. I think they should get the maximum and it should be concurrent, and that's the purpose and legislative intent of this bill.

SENATOR ABATE: Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator

Abate, on the bill.

SENATOR ABATE: I agree with you that in very serious crimes there should be no discretion and that we need to throw the book at people, so to speak, and consecutive sentences will be appropriate.

My concern is that a better bill -- I will vote for this because on balance, I think it will be utilized hopefully by the district attorneys and judges in a responsible manner, but I can conceive of a situation where the law would be better crafted if the "must" were substituted for "may", so to give discretion to the judges in cases where they're not heinous crimes, where they're not serious assaults, serious arsons, serious homicides, where it may be a first time offender, may have committed a violent felony offense or maybe burglary, and it would not warrant such a sentence.

I'm hoping, even though I will vote for this bill this year, if it does not become law, there will be an opportunity for

Senator Tully to look at certain amendments to ensure that there can be fairness across the board and that maybe we can isolate out those very heinous cases that you're talking about - the rape, the homicides, so that in fairness to the court and not taking away too much authority from the judge, we'll be producing better justice.

I'll vote yes hoping that next year this will become a better bill.

ACTING PRESIDENT KUHL: Secretary will read the last section.

Oh, I'm sorry, Senator Waldon.

SENATOR WALDON: Mr. President, I was going to ask Senator Tully a few questions but, in her eminent way, Senator Abate covered the questions I wished to ask, I'll merely speak on the bill.

As all of you know, my colleagues and Mr. President, I am absolutely opposed to interfering with judicial discretion, and this is another instance where the capable judge who is sitting viewing the evidence of the trial and

all of the dynamics related thereto will be - will have taken away the opportunity to make the most valid decision of the moment.

I think that's wrong. I think that is not part of what we should be about as a legislative body. I think there should be some distinction between the power of the Legislature and the power of the judge in regard to the decisions made on the bench during the course of the trial, related specifically and only to the dynamics of the trial.

I, at this moment in my life, do not wish to be a judge, so I'm not going to try to superimpose my legislative capability and inclinations on our judges. I think it's a mistake to do so. I would encourage, however, because on balance, as Senator Abate said, this is the way to go with those who are guilty and convicted, even if it's a plea bargaining situation, of committing the most heinous crimes.

And so I will support this, but I do so reluctantly and I want the record to show

that again this is an interference with judicial discretion. It's a very, very thin sheet of ice that we're skating upon when we did so.

Thank you, Mr. President and my colleagues.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 3. 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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1286, by Senator DiCarlo, Senate Print 5899, an act authorizing the city of New York.

ACTING PRESIDENT KUHL: There is a home rule message at the desk.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: An

explanation has been asked for, Senator DiCarlo, by Senator Paterson.

SENATOR DiCARLO: Yes, Mr. President.

This authorizes the city of New York to reconvey its interest in Block 3530, Lot 95 in Staten Island to Eleanor Salemo. Mrs. Salemo is a widow with three children who lost a job and couldn't pay the taxes on her property. The City has no problem with having her pay the back taxes and the penalty and to reconvey her interest.

ACTING PRESIDENT KUHL: 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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number

1287, by Senator Rath, Senate Print 6049, an act to amend the State Administrative Procedure Act.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Rath, an explanation of Calendar Number 1287 has been asked for by Senator Paterson.

SENATOR RATH: Senator Paterson, the bill before you is a bill that has passed the Senate in '92, '93 and '94 and it's a bill that extends to local governments the same courtesies, if you will, when rule-making occurs that are extended to small businesses.

Right now, local governments do not have an opportunity for input when they are going to be impacted by rule-making. The bill is supported by the New York State Association of Counties, the County Legislators and Supervisors Association, and what it does is, it makes New York State a helpful partner with local government when we are working with them in rule-making and gives them an opportunity for a flexibility that they haven't had before.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you. If Senator Rath would yield for a question.

ACTING PRESIDENT KUHL: Senator Rath, do you yield?

SENATOR RATH: Surely.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR PATERSON: Senator, actually, I laid this bill aside for Senator Leichter. We are trying to locate him, but what I am trying to do at this moment is conduct a mind meld, so I can figure out what Senator Leichter would have asked you, and the best I can come up with is that since the local government is part of the whole of the state government as opposed to local businesses that don't necessarily have that duty, would it not be actually correct to leave it the way it is and that the duty is on the local government to understand what the government regulation is, whereas with the business which is perceived to

be out of government, we would be giving the business an opportunity to participate in the decision-making process?

SENATOR RATH: My understanding, Senator Paterson, is that -

SENATOR PATERSON: You understand that?

SENATOR RATH: Pardon me?

SENATOR PATERSON: You understand what I said?

SENATOR RATH: Yes.

SENATOR PATERSON: Oh, because I didn't, so -

SENATOR RATH: I thought it was brilliant actually.

My understanding of your point as we've reviewed this legislation has been that, when the state government is silent on issues such as this or state law is silent on issues such as this, the agencies that move forward and develop rules for local government do not consult them in advance and do not consider what kinds of outreach would be necessary in order

for them to have input into it, so that the kind of flexibility that will offer them an opportunity to function more efficiently, effectively and economically is not there, and this is what this would ensure.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you. On the bill. I think Senator Rath is -

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: I think Senator Rath is correct. Even if there is a distinction between the local government and the small business or any business, the fact is that notification would certainly give the local government an opportunity to come in and provide information that the agency might not be aware of. So it's fine with me.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Oh, I'm

sorry, Senator Leichter.

SENATOR LEICHTER: Senator Rath.

ACTING PRESIDENT KUHL: Senator Rath, do you yield to a question from Senator Leichter?

SENATOR RATH: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: As I read this bill, and I didn't have a chance to look into it beforehand, but unlike the bill that we had yesterday from Senator Wright in regard to the economic impact of a proposed rule where there could be delays that could be demanded by the Commissioner of Labor or the Commissioner of Economic Development, as I understand your bill just requires that they pay attention to the impact on local government and give notification, is that correct?

SENATOR RATH: Right, Senator. The New York State Association of Counties, in their memorandum of support said, quote, "This bill would help to put an end to the current

practices of some state agencies of imposing in determinate costs on local governments without considering the impact of those additional costs," and both the NYSAC and the County Legislators and Supervisors Association have sent memorandums in support, and as chairman of Local Government, my -- my -- one of my very greatest concerns is to be assured that local governments can function as economically and as efficiently as possible, and I think they have been affected through the years by regulatory impacts that could have been lessened and mitigated had there been some discussion and interaction before the fact rather than after the fact.

SENATOR LEICHTER: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Just briefly on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: I have no difficulty with the bill. Obviously as rules are proposed, all aspects, all sectors, all areas, all economic interests of the state that could be impacted by the rule ought to be considered.

I just think that we ought to be careful that, as we try to make rule-making less cumbersome, as we try to avoid delays that ensue as a result of rule-making, that we don't make it even more cumbersome and, very frankly, some of the so-called clarification or simplification of administrative procedures that I find coming from the Majority seem to me to have just the opposite effect, but I have no problem with this particular bill.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 5. This act shall take effect on the 120th day.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1298, by Senator Present, Senate Print 6791-A, an act to reopen the special retirement plan.

ACTING PRESIDENT KUHL: Senator Present, an explanation has been asked for on Calendar Number 1298.

SENATOR PRESENT: Thank you, Mr. President.

This is at the request of the city of Dunkirk. They have two police officers who were, through no fault of their own, were placed inadvertently in Section 375 (i) of the retirement plan instead of section 384 (d) and because of that initial error, both officers were denied the opportunity to make a timely election to 384 (e). This will correct that error that was administered by the city of Dunkirk, and the city of Dunkirk would like to assist these two police officers in getting into the right retirement system.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Mr. President, just on the bill. We -

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: We just passed in the Rules Committee, there were -- was at least one other bill which also dealt with a re-opening of pensions and making eligibility in pension plans available to the people who allegedly had the opportunity and through no fault of their own.

Some years ago, two or three years ago, Senator Trunzo, after much urging and I know something that was of concern to him, passed a generic bill to try to take care of all these cases and the bill finally passed. I think Senator Trunzo, for many years, had urged the passage of that bill and had difficulty convincing the Assembly, but he finally prevailed and we put this system in place and for a couple years thereafter we weren't

inundated with all of these bills opening up pension plans.

For some reason they are all coming back now, and what I suggested in the Rules Committee, is that we -- we take a look at the specific reason why in this particular instance or those instances of the bills that we were considering did the overall system that we set up, which I think we gave the Comptroller the authority to determine the validity of the claim, why didn't that system work, because we shouldn't be put in the position of trying to pass in each of these cases, was it negligent, wasn't it negligent, so what do we do, we just pass all of these bills, ordinarily the Governor vetoes them. It's really just a great waste of time.

I'm not saying, Senator Present, that there isn't a reason for your bill, and I'm going to support it just because of my respect for you, but I think that we need to pull back and just take a look to see if, for whatever reason, we're not trying to do an end run around

the very system that Senator Trunzo finally prevailed upon the Legislature to set up.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1304, by Senator Johnson, Senate Print Number 7104-A, an act in relation to authorizing the county of Suffolk.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: There's a home rule message at the desk. Senator Johnson, an explanation of Calendar Number 1304 has been asked for by Senator Paterson.

SENATOR JOHNSON: Mr. President, this bill would provide that the county of

Suffolk can renew an existing lease on a piece of land which they received as a gift some 30 years ago which has been dedicated as park land though really never operated as a park. It is a back part of a piece of property which the existing lease which has been on it for that period of time has been through a local not-for-profit conservation/sportsmen group which has been using that as buffer land adjacent to their property so they can control the access there, keep out the dumpers, and so forth.

This property is used only for, as I say, buffer purposes in connection with the conservation programs and things of that nature. The property is only used on occasion by Boy Scouts camping out, for the conservation officers hold a program -- conservation program there every year, week end, and things like that so it will essentially remain in the same condition it is.

The reason this bill is before us is because park land cannot be alienated without

consent of the Legislature.

SENATOR PATERSON: Last section.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1308, substituted earlier today, by the Assembly Committee on Rules, Assembly Print 10,572-A, an act to authorize the sale of real property.

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 54.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1309, by Senator Seward, Senate Print 7508, an act to legalize, ratify and confirm certain proceedings.

ACTING PRESIDENT KUHL: There's a home rule message 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 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Seward?

SENATOR SEWARD: Yes. May we please return to reports of standing committees. I believe that there's a report of the Rules Committee at the desk.

ACTING PRESIDENT KUHL: There is a report of the Rules Committee at the desk. We'll return to the reports of standing committees. I'll ask the Secretary to read the report.

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

Senate Print 701, by Senator Padavan, an act to amend the Social Services Law;

Senate Print 1019, by Senator Johnson, an act to amend the Public Health Law, in relation to approvals;

3092, by Senator Padavan, an acted to amend the Social Services Law, in relation to the exclusion;

3654-C, by Senator Bruno, an act to amend the Vehicle and Traffic Law, in relation to authorizing;

3949, by Senator Volker, an act to amend the Criminal Procedure Law, in relation to the fingerprinting;

4004, by Senator Nozzolio, an act to amend the Correction Law and the Executive Law;

4231, by Senator DeFrancisco, an act to amend the Public Health Law, in relation to the establishment;

4518-A, by Senator Nozzolio, an act to amend Executive Law, in relation to preliminary;

4607, by Senator LaValle, an act to amend the Executive Law, in relation to prohibiting;

4800-A, by Senator DeFrancisco, an act to amend the Navigation Law, in relation to jurisdiction;

5136-A, by Senator Marchi, an act to provide additional service credit;

5290-A, by Senator Spano, an act to amend the Real Property Tax Law;

5299-A, by Senator Hoblock, an act to amend the Vehicle and Traffic Law, in relation to authorizing;

5807, by Senator Marchi, an act

authorizing the city of New York to reconvey;

5898, by Senator Babbush, an act authorizing the city of New York to reconvey its interests;

5961-B, by Senator Skelos, an act to amend Chapter 273 of the Laws of 1939;

6214-A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

6342, by Senator Wright, an act to amend the Tax Law, in relation to refunds;

6394-A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

6476, by Senator Maltese, an act to amend the Education Law, in relation to student aid programs;

6576-A, by Senator Kuhl, an act to amend the Alcoholic Beverage Control Law and the Tax Law;

6638-B, by Senator Marchi, an act to amend the Vehicle and Traffic Law, in relation to distinctive license plates;

6731, by Senator Espada, an act authorizing the city of New York to reconvey its

interest;

6744, by Senator Stafford, an act to amend the Tax Law, in relation to authorizing the county of Washington;

6852, by Senator Alesi, an act to amend the Social Services Law, the Tax Law and the Agriculture and Markets Law;

6910, by Senator Alesi, an act to amend the Real Property Tax Law, in relation to permitting;

6937, by Senator Hoblock, an act to amend the Transportation Law, in relation to airport preservation;

7105, by Senator Skelos, an act to amend the Penal Law and the Criminal Procedure Law;

7120, by Senator Holland, an act to amend the Penal Law, in relation to fixing sentences;

7178, by Senator DiCarlo, an act to amend the Penal Law, in relation to increasing the criminal penalties;

7245, by Senator Saland, an act

to amend the Penal Law, in relation to including;

7298-A, by Senator LaValle, an act to amend the Highway Law, in relation to creating a temporary task force;

7306-A, by Senator Skelos, an act in relation to transfers of certain eligible members;

7494, by Senator DiCarlo, an act to amend the Public Authorities Law, in relation to providing;

7545, by Senator Nozzolio, an act to amend the Real Property Law;

7560, by Senator Rath, an act to amend the Real Property Tax Law;

7571, by Senator DeFrancisco, an act authorizing the extension of the Geddes Fire Protection District;

7621, by Senator DiCarlo, an act to amend Chapter 602 of the Laws of 1982; and

7639, by Senator Kuhl, an act to amend the Agriculture and Markets Law.

All bills ordered directly for

third reading.

ACTING PRESIDENT KUHL: Senator Seward.

SENATOR SEWARD: Mr. President, I move accept the report of the Rules Committee.

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

(Response of "Aye.")

Opposed nay.

(There was no response. )

The Rules report is accepted.

Senator Seward.

SENATOR SEWARD: Yes. Is there any housekeeping at the desk.

ACTING PRESIDENT KUHL: There is. Senator DiCarlo.

SENATOR DiCARLO: Thank you, Mr. President.

On behalf of Senator Farley, please remove the sponsor's star on Calendar 991, Senate 7374-A.

ACTING PRESIDENT KUHL: The star

on Calendar Number 991 is removed at the request of the sponsor.

Senator Holland.

SENATOR HOLLAND: Mr. President, on page 27, I offer the following amendments to Calendar Number 964, for Senator Velella, Senate Bill Number 7099, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 964 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: Mr. President, for Senator Rath, on page 53, I offer the following amendments to Calendar Number 944, Senate Print Number 7367-A and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 944 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: Also for Senator Rath, on page 42, I offer the following amendments to Calendar Number 1213, Senate Print Number 6536, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1213 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Holland.

SENATOR HOLLAND: For Senator Volker, on page 15, I offer the following amendments to Calendar Number 615, Print Number 3580, and ask that the said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar 605 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Wright.

SENATOR WRIGHT: Mr. President, I have a request that a sponsor's star be placed

on my bill, Calendar Number 988, Senate Print Number 2029-C.

ACTING PRESIDENT KUHL: Calendar 988 is starred at the request of the sponsor.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT KUHL: Senator Seward.

SENATOR SEWARD: Yes. There being no further business, I move that we adjourn until Monday, June 10, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until next Monday, June 10, at 3:00 p.m., intervening days to be legislative days.

(Whereupon at 11:50 a.m., the Senate adjourned.)