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ALBANY, NEW YORK

May 5, 1997

3:09 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

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P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Please join me in the Pledge of Allegiance.

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

The invocation today will be given by Rabbi Sholom Stern, Temple Beth-El, Cedarhurst, New York. Rabbi.

(Applause)

RABBI STERN: I want to thank Senator Skelos for extending the invitation to join with you today. Friends, yesterday in the Hebrew calendar was Yom Ha Shoah, Holocaust Memorial Day. It's a day set aside to mourn 6 million Jews who were victims of the most devastating assault ever perpetrated against any single people. While my people were targeted for annihilation, 5 million other non-Jews were treated as social outcasts and a threat to the purity of the race as they met a similar tragic fate.

As I stand before you this afternoon, I contrast this legislative body with another legislative body that met 62 years ago

1 in the most cultivated of all European
2 countries. There, laws were promulgated
3 restricting citizenship to those of German or
4 kindred blood. A few years later, inspired by
5 these Nurenberg laws, these cultured people who
6 cried when listening to Mozart, Haydn and
7 Beethoven at the classical concerts at
8 Auschwitz, proceeded unemotionally to shoot and
9 gas to death millions of men, women and
10 children.

11 The Holocaust is a grim reminder
12 that culture and cold-blooded murder are not
13 mutually exclusive. Given this reality it's
14 good to pause for a moment and reaffirm the
15 truth articulated in our Declaration of
16 Independence that all of us are created equal,
17 endowed by God with the same rights to life and
18 liberty. May our pursuit for just laws for all
19 Americans match our pursuit for happiness.

20 Azinu Shebat Shedayim, Heavenly
21 Father, help us to realize that to think in
22 terms of man being white, black or yellow is
23 more than an error. It is an eye disease and a
24 cancer of the soul. May we understand that the
25 test of our humanity is the degree to which we

1 are sensitive to other people's suffering. May
2 America remain America the beautiful, not only
3 for its spacious skies or the majesty of its
4 purple mountains, but primarily because we
5 recognize that God's spirit rests upon all, Jew,
6 Christian, Muslim, man or woman, in consonance
7 with our beings. May we act in a way that we
8 will be worthy of God's shedding His grace upon
9 us and crowning His good with brotherhood from
10 sea to shining sea. Amen.

11 THE PRESIDENT: Amen.

12 The reading of the Journal.

13 THE SECRETARY: In Senate,
14 Friday, May 2nd. The Senate met pursuant to
15 adjournment. The Journal of Thursday, May 1st,
16 was read and approved. On motion, Senate
17 adjourned.

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

20 Presentation of petitions.

21 Messages from the Assembly.

22 Messages from the Governor.

23 Reports of standing committees.

24 Reports of select committees.

25 Communications and reports from

1 state officers.

2 Motions and resolutions. Senator
3 Farley.

4 SENATOR FARLEY: Thank you, Madam
5 President.

6 I wish to place a sponsor's star
7 on Calendar Number 690, Senate Print 4245, and
8 also Calendar Number 691, Senate Print S. 4246.

9 THE PRESIDENT: So ordered.

10 SENATOR FARLEY: Madam President.

11 THE PRESIDENT: Senator Farley.

12 SENATOR FARLEY: I'm going to
13 withdraw the one -- I'm going to withdraw
14 starring those bills because they are on the
15 First Report, and I'll do it tomorrow.

16 THE PRESIDENT: Thank you.

17 Senator Marcellino.

18 SENATOR MARCELLINO: Madam
19 President, on page number 40, I offer the
20 following amendments to Calendar Number 349,
21 Senate Print Number 3358, and ask that said bill
22 retain its place on the Third Reading Calendar.

23 THE PRESIDENT: So ordered.

24 SENATOR MARCELLINO: And at the
25 request of the sponsor, can we remove the

1 sponsor's star on that very same bill?

2 Madam President.

3 THE PRESIDENT: The star is
4 removed.

5 Go ahead, Senator Marcellino.

6 SENATOR MARCELLINO: I move that
7 the following bills be discharged from their
8 respective committees and be recommitted with
9 instructions to strike the enacting clause:
10 Specifically on behalf of Senator Alesi, Bill
11 Number 3570.

12 THE PRESIDENT: Enacting clause
13 struck.

14 Senator Kuhl.

15 SENATOR KUHL: Madam President,
16 I'd like to offer up the following amendments to
17 the following Third Reading Calendar bills: On
18 behalf of Senator Wright, page 17, Calendar
19 Number 143, Senate Print 1659; behalf of Senator
20 Saland, page 19, Calendar Number 227, Senate
21 Print 1289; behalf of Senator Volker, on page
22 21, Calendar Number 284, Senate Print 365-A; on
23 behalf of Senator Holland, page 23, Calendar
24 Number 339, Senate Print 453-A; on behalf of
25 Senator Nozzolio, on page 24, Calendar Number

1 377, Senate Print 177-A; on behalf of Senator
2 Nozzolio, on page 24, Calendar Number 381,
3 Senate Print 1783; on behalf of Senator
4 Nozzolio, page 26, Calendar Number 381, Senate
5 Print 475-A; behalf of Senator Lack, on page 32,
6 Calendar Number 519, Senate Print 3608; also on
7 behalf of Senator Lack, page 40, Calendar Number
8 516, Senate Print 3527, and I'd move that the
9 bills retain their place on the Third Reading
10 Calendar.

11 THE PRESIDENT: Amendments
12 received.

13 SENATOR KUHL: Also, Madam
14 President, I wish to call up Calendar Number
15 466, on behalf of Senator Skelos, Assembly Print
16 357-A, and I now move -- read it.

17 THE PRESIDENT: Secretary. The
18 Secretary will call the roll.

19 THE SECRETARY: Calendar Number
20 466, by member of the Assembly Weisenberg,
21 Assembly Print 357-A, an act to amend the
22 Insurance Law.

23 SENATOR KUHL: Madam President, I
24 now move to reconsider the vote by which the
25 Assembly bill was substituted for Senator

1 Skelos' bill, Senate Print 149-A, on April 2nd.

2 THE PRESIDENT: On the motion,
3 the Secretary will call the roll.

4 (The Secretary called the roll.)

5 THE SECRETARY: Ayes 53.

6 SENATOR KUHL: Madam President, I
7 now move that the Assembly Bill Number 357-A be
8 recommitted to the Committee on Insurance and
9 that the Senate bill by Senator Skelos be
10 restored to the order of the Third Reading
11 Calendar.

12 THE PRESIDENT: Assembly bill is
13 recommitted, and the Senate bill is restored to
14 the Third Reading Calendar.

15 SENATOR KUHL: Madam President, I
16 now offer up the following amendments.

17 THE PRESIDENT: Amendments
18 received.

19 Secretary will read two
20 substitutions.

21 THE SECRETARY: Senator Farley
22 moves to discharge from the Committee on Banks
23 Assembly Bill Number 5470, and substitute it for
24 the identical Calendar Number 688.

25 Senator Padavan moves to

1 discharge from the Committee on Mental Health
2 and Developmental Disabilities, Assembly Bill
3 3383 and substitute it for the identical First
4 Report 696.

5 THE PRESIDENT: Substitutions
6 ordered.

7 Senator Bruno.

8 SENATOR BRUNO: Madam President,
9 I believe you have a resolution at the desk by
10 Senator Seward. I would ask that at this time
11 it be read in its entirety and that we move for
12 its immediate adoption.

13 THE PRESIDENT: The Secretary
14 will read.

15 THE SECRETARY: By Senator
16 Seward, Legislative Resolution congratulating
17 Oneonta Senior High School Girls' Basketball
18 Team and Coach Moriarty upon their outstanding
19 season and overall team record and upon winning
20 the 1997 New York State High School Athletic
21 Association Class B Championship.

22 WHEREAS, excellence and success
23 in competitive sports can be achieved only
24 through strenuous practice, team play and team
25 spirit, nurtured by dedicated coaching and

1 strategic planning;

2 Athletic competition enhances the
3 moral and physical development of the young
4 people of this state, preparing them for the
5 future by instilling in them the value of team
6 work, encouraging a standard of healthy living,
7 imparting a desire for success and developing a
8 sense of fair play and competition.

9 The Oneonta Senior High School
10 Girls' Basketball Team are the 1997 New York
11 State High School Athletic Association Class B
12 Champions.

13 The athletic talent supplied by
14 this team is due in great part to the coaching
15 efforts of Coach Tom Moriarty, a skilled and
16 inspirational tutor, respected for his ability
17 to develop potential into excellence.

18 The team's overall record is
19 outstanding and team members were loyally and
20 enthusiastically supported by family, fans,
21 friends and the community at large.

22 The hallmarks of the Senior High
23 School Girls' Basketball Team, from the opening
24 game of the season to participation in the
25 championship, were a sisterhood of athletic

1 ability, of good sportsmanship, of honor and of
2 scholarship, demonstrating that these team
3 players are second to none.

4 Athletically and academically,
5 the team members have proven themselves to be
6 unbeatable, a combination of talent reflecting
7 favorably on their school.

8 Coach Tom Moriarty has done a
9 superb job in guiding, molding and inspiring the
10 team members toward their goals.

11 Sports competition instills the
12 values of teamwork, pride and accomplishment and
13 Coach Tom Moriarty and 14 outstanding athletes
14 have clearly made a contribution to the spirit
15 of excellence which is a tradition of their
16 school;

17 NOW, THEREFORE, BE IT RESOLVED
18 that this legislative body pause in its
19 deliberations to congratulate the Oneonta High
20 School Girls' Basketball Team; its members:
21 Kelly Sosa, Dana Wilkens, Krissy Zeh, Leigh
22 Irwin, Kim McMullen, Erin Shackelton, Marcy
23 Riddell, Laura Erbe, Kristen Forgiano, Karyn
24 Pierce, Tiffany Hurley, Stacy Knapp, Kristen
25 Constanty and Kim Palmeter; and Coach Tom

1 Moriarty, Assistant Coach Tim Smith, Manager
2 Toni McDaniels and Oneonta High School Athletic
3 Director Robert Zeh on their outstanding season
4 and overall team record; and

5 BE IT FURTHER RESOLVED that a
6 copy of this resolution, suitably engrossed, be
7 transmitted to the Oneonta High School Girls'
8 Basketball Team and to Coach Tom Moriarty.

9 THE PRESIDENT: Senator Seward.

10 SENATOR SEWARD: Yes, on the
11 resolution.

12 It's a special honor today to
13 have with us in the Senate Gallery the New York
14 State Class B Women's Basketball Champions, the
15 Oneonta High School Basketball Team, and I rise
16 not only as the Senator from the 50th District
17 which includes Oneonta, but also a graduate of
18 Oneonta High School Class of 1969. The Lady
19 Yellow Jackets ended the season with a record of
20 excellence led by Coach Moriarty, Assistant
21 Coach Tim Smith, Manager Toni McDaniels, as well
22 as Athletic Director Robert Zeh.

23 These ladies have set a new
24 standard of excellence in athletics. Their
25 perfect 13-and-0 season within the Susquehanna

1 League made them champions, and they clinched
2 the Section 4 Class B Championship and followed
3 up as the state's Public High School Athletic
4 Association Region 1 Champion, and then crowned
5 their efforts with the state Class B
6 Championship with 26 consecutive wins.

7 All of the team members are in
8 the gallery today, as well as their coach, Tom
9 Moriarty as well as Athletic Director Bob Zeh
10 and Mrs. Zeh, as well as a teacher from Oneonta
11 High School, Joe Hughes, and this team not only
12 is noteworthy for their athletic ability but
13 also for their academic abilities and their
14 leadership skills, their teamwork and their "can
15 do" winning spirit.

16 In my mind, they represent what's
17 all the best in today's youth, and also all the
18 best in the future of New York.

19 So, Madam President, I move for
20 the adoption of this resolution, and once it's
21 passed I would ask that you ask that the team
22 members stand so that the members can recognize
23 them.

24 THE PRESIDENT: Thank you,
25 Senator Seward.

1 Is there anyone else who would
2 like to speak on the resolution? On the
3 resolution, all in favor signify by saying aye.

4 (Response of "Aye.")

5 Opposed nay.

6 (There was no response.)

7 The resolution is adopted.
8 Congratulations to the team, and I hope that
9 they will stand so that we can appropriately
10 recognize them.

11 (Applause)

12 Senator Bruno.

13 SENATOR BRUNO: Madam President,
14 can we at this time take up the
15 non-controversial calendar.

16 THE PRESIDENT: The Secretary
17 will read.

18 THE SECRETARY: Calendar Number
19 103, by Senator Saland, Senate Print 816-A, an
20 act to amend the Penal Law, in relation to
21 authorizing restitution for expenses.

22 Section 5. This act shall take
23 effect on the 1st day of November.

24 THE PRESIDENT: Call the roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 55.

2 THE PRESIDENT: The bill is
3 passed.

4 THE SECRETARY: Calendar Number
5 347, by Senator Wright, Senate Print 3004, an
6 act to amend the Vehicle and Traffic Law and the
7 Mental Hygiene Law, in relation to an evaluation
8 and treatment requirement for certain offenders.

9 THE PRESIDENT: Read the last
10 section, please.

11 THE SECRETARY: Section 6. This
12 act shall take effect on the 1st day of
13 November.

14 THE PRESIDENT: Call the roll.
15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 55.

17 THE PRESIDENT: The bill is
18 passed.

19 THE SECRETARY: Calendar Number
20 495, by Senator Hannon, Senate Print 300-A.

21 THE PRESIDENT: Lay it aside,
22 please.

23 SENATOR HANNON: Madam President,
24 would you please star that at the request of the
25 sponsor.

1 THE PRESIDENT: The bill is
2 starred.

3 Senator Skelos.

4 SENATOR SKELOS: Madam President,
5 there will be an immediate meeting of the
6 Transportation Committee in room -- in the
7 Majority Conference Room.

8 THE PRESIDENT: There will be an
9 immediate meeting of the Transportation
10 Committee in the Majority Conference Room.

11 Secretary will read.

12 THE SECRETARY: Calendar Number
13 502, by Senator Seward, Senate Print Number
14 3092, an act to amend the Executive Law, in
15 relation to requiring the State Fire Prevention
16 and Building Code Council.

17 ACTING PRESIDENT KUHL: Read the
18 last section.

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

21 ACTING PRESIDENT KUHL: Call the
22 roll.

23 (The Secretary called the roll.)

24 THE SECRETARY: Ayes 55.

25 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 506, by Senator Leibell, Senate Print 3577, an
4 act to amend the Private Housing Finance Law in
5 relation to the definition of manufactured
6 home.

7 ACTING PRESIDENT KUHL: Secretary
8 will read the last section.

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

11 ACTING PRESIDENT KUHL: Call the
12 roll.

13 (The Secretary called the roll.)

14 THE SECRETARY: Ayes 55.

15 ACTING PRESIDENT KUHL: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 509, by Senator Leibell, Senate Print 3610, an
19 act to amend the Executive Law, in relation to
20 providing for the Commissioner of the Division
21 of Housing.

22 ACTING PRESIDENT KUHL: Secretary
23 will read the last section.

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

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 SENATOR GOLD: Lay it aside.

5 ACTING PRESIDENT KUHL: Lay the
6 bill aside.

7 THE SECRETARY: Calendar Number
8 513, by Senator Volker, Senate Print 2789, an
9 act to amend the Real Property Actions and
10 Proceedings Law, in relation to foreclosure of a
11 mortgage.

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

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

17 ACTING PRESIDENT KUHL: Call the
18 roll.

19 (The Secretary called the roll.)

20 THE SECRETARY: Ayes 55.

21 ACTING PRESIDENT KUHL: The bill
22 is passed.

23 THE SECRETARY: Calendar Number
24 515, by Senator Lack, Senate Print 3453, an act
25 to amend the Judiciary Law, in relation to

1 payment of expenses.

2 VOICE: Lay aside.

3 ACTING PRESIDENT KUHL: Lay the
4 bill aside.

5 THE SECRETARY: Calendar Number
6 524, by member of the Assembly Magee, Assembly
7 Print 5360, an act to amend the Town Law, in
8 relation to publication of notice.

9 ACTING PRESIDENT KUHL: Secretary
10 will read the last section.

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

13 ACTING PRESIDENT KUHL: Call the
14 roll.

15 (The Secretary called the roll.)

16 THE SECRETARY: Ayes 55.

17 ACTING PRESIDENT KUHL: The bill
18 is passed.

19 THE SECRETARY: Calendar Number
20 529, by Senator Rath, Senate Print 3670, an act
21 to amend the General Municipal Law, in relation
22 to authorizing an increase in the charge that
23 may be imposed for a returned check.

24 ACTING PRESIDENT KUHL: Secretary
25 will read the last section.

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

3 ACTING PRESIDENT KUHL: Call the
4 roll.

5 SENATOR GOLD: Lay aside.

6 ACTING PRESIDENT KUHL: Lay the
7 bill aside.

8 THE SECRETARY: Calendar Number
9 534, by Senator Levy, Senate Print 100, an act
10 to amend Chapter 312 of the Laws of 1994,
11 amending the Vehicle and Traffic Law.

12 ACTING PRESIDENT KUHL: Secretary
13 will read the last section.

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

16 ACTING PRESIDENT KUHL: Call the
17 roll.

18 (The Secretary called the roll.)

19 THE SECRETARY: Ayes 55.

20 ACTING PRESIDENT KUHL: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 538, by Senator Alesi, Senate Print 3989, an act
24 to amend the Vehicle and Traffic Law, in
25 relation to extending the time of license.

1 ACTING PRESIDENT KUHL: Secretary
2 will read the last section.

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

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 55.

10 ACTING PRESIDENT KUHL: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 547, by Senator Maltese, Senate Print 2043, an
14 act to amend the Vehicle and Traffic Law,
15 Criminal Procedure Law and the Tax Law.

16 ACTING PRESIDENT KUHL: Secretary
17 will read the last section.

18 THE SECRETARY: Section 11. This
19 act shall take effect on the 1st day of
20 November.

21 ACTING PRESIDENT KUHL: Call the
22 roll.

23 (The Secretary called the roll.)

24 ACTING PRESIDENT KUHL: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 553, by Senator DeFrancisco, Senate Print 4038,
3 an act to amend the Public Authorities Law, in
4 relation to promotion opportunities for members
5 of the Thruway Authority.

6 ACTING PRESIDENT KUHL: Secretary
7 will read the last section.

8 THE SECRETARY: Section 5. This
9 acted shall take effect immediately.

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 55.

14 ACTING PRESIDENT KUHL: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 572, by Senator Marcellino, Senate Print 4130,
18 an act to amend the Environmental Conservation
19 Law, in relation to eliminating the requirement
20 that transported or relayed shellfish are
21 tagged.

22 SENATOR GOLD: Lay it aside.

23 ACTING PRESIDENT KUHL: Lay the
24 bill aside.

25 THE SECRETARY: Calendar Number

1 589, by Senator Skelos, Senate Print 3655-A, an
2 act to amend the Insurance Law, in relation to
3 authorizing a new kind of insurance.

4 ACTING PRESIDENT KUHL: Secretary
5 will read the last section.

6 THE SECRETARY: Section 7. This
7 act shall take effect immediately.

8 ACTING PRESIDENT KUHL: Call the
9 roll.

10 (The Secretary called the roll.)

11 THE SECRETARY: Ayes 55.

12 ACTING PRESIDENT KUHL: The bill
13 is passed.

14 Senator Skelos, that completes
15 the reading of the non-controversial calendar.
16 What's your pleasure?

17 SENATOR SKELOS: Mr. President,
18 if we could take up the controversial calendar
19 at this time.

20 ACTING PRESIDENT KUHL: Secretary
21 will read the controversial calendar.

22 THE SECRETARY: On page 31,
23 Calendar Number 509, by Senator Leibell, Senate
24 Print 3610, an act to amend the Executive Law,
25 in relation to providing for the Commissioner of

1 Division of Housing and Community Renewal to be
2 eligible for appointment.

3 SENATOR GOLD: Explanation.

4 ACTING PRESIDENT KUHL: Senator
5 Leibell, an explanation of Calendar Number 509,
6 Senate Print 3610, has been requested by Senator
7 Gold.

8 SENATOR LEIBELL: This, Mr.
9 President, will add the Commissioner of DHCR to
10 the list of state agency officials from which
11 the Governor may select members for the state
12 Uniform Fire Prevention and Building Code
13 Council.

14 ACTING PRESIDENT KUHL: Senator
15 Gold, do you wish to be recognized?

16 SENATOR GOLD: Yield for a
17 question?

18 Yes. Senator, would you tell us
19 who's on the Council now?

20 SENATOR LEIBELL: Do you have a
21 list? I don't have the list with me, Senator, of
22 who else is on there. I can get it for you
23 though.

24 SENATOR GOLD: All right. You
25 want to lay it aside until tomorrow?

1 SENATOR LEIBELL: That's up to
2 you.

3 SENATOR GOLD: Fine.

4 SENATOR LEIBELL: We'll bring it
5 right back, Mr. President.

6 ACTING PRESIDENT KUHL: You want
7 to lay the bill aside temporarily?

8 SENATOR LEIBELL: Just for a few
9 minutes until we can -

10 ACTING PRESIDENT KUHL: Lay the
11 bill aside temporarily. Senator Skelos, that
12 O.K. with you?

13 The bill will be laid aside
14 temporarily. The Secretary will continue to
15 read the controversial calendar.

16 THE SECRETARY: Calendar Number
17 515, by Senator Lack, Senate Print 3453, an act
18 to amend the Judiciary Law, in relation to
19 payment of expenses.

20 SENATOR SKELOS: Lay it aside for
21 the day.

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

24 THE SECRETARY: Calendar Number
25 529, by Senator Rath, Senate Print 3670, an

1 act to amend the General Municipal Law, in
2 relation to authorizing an increase in the
3 charge that may be imposed for a returned
4 check.

5 SENATOR GOLD: Explanation.

6 ACTING PRESIDENT KUHL: Senator
7 Rath, an explanation of Calendar Number 529,
8 Senate Print 3670 has been requested by Senator
9 Gold.

10 SENATOR RATH: Presently the
11 amount for a returned check for a municipality
12 that they can collect when a check bounces is
13 \$15. The proposal is that it be raised to \$20,
14 and presently merchants are allowed to charge
15 \$20, municipalities only 15; so it will bring
16 equity to the situation and help alleviate some
17 costs for local government.

18 ACTING PRESIDENT KUHL: Senator
19 Gold?

20 SENATOR GOLD: Yeah. Will the
21 Senator yield to a question?

22 ACTING PRESIDENT KUHL: Senator
23 Rath, do you yield to a question from Senator
24 Gold?

25 SENATOR RATH: Yes.

1 ACTING PRESIDENT KUHL: The
2 Senator yields.

3 SENATOR GOLD: Senator, are we
4 doing this because basically we've got banks
5 that are charging the \$20 on these checks and
6 this gives them an opportunity to pass it along?

7 SENATOR RATH: Well, the charge
8 is more than it was before, and I'm not exactly
9 sure that the banks are not charging more than
10 that, but certainly at least that much. That's
11 why we did it three years ago for the -- I'm
12 trying to say the merchants. Now, we want to do
13 it for the municipalities.

14 SENATOR GOLD: Well, Mr.
15 President, on the bill.

16 ACTING PRESIDENT KUHL: Senator
17 Gold, on the bill.

18 SENATOR GOLD: I understand the
19 problem, and to tell you the truth, I would have
20 rather seen a solution which stopped the banks
21 from ripping off the public on what they're
22 charging on returned checks rather than see us
23 protecting the municipalities which need
24 protection as the merchants need protection,
25 Senator, and I appreciate the fact there's a

1 problem.

2 I wish, though, that the
3 Legislature had the guts to take on the source
4 of the problem, which is the banks. You know, I
5 know we had the same argument with interest
6 rates. The poor banks and the credit card
7 companies, they can't do enough business and,
8 therefore, they've got to be competitive and
9 raise the interest rates.

10 I'm telling you, I'm not
11 unusual. I bet there's not a person in this
12 house that doesn't get an unasked for
13 solicitation once or twice a week to get a new
14 credit card because they want to give them away
15 because they're making so much money on them,
16 and I cannot believe that the banks lose money
17 on returned checks. I think that, when they do
18 their daily prayers, they pray for returned
19 checks because the amount that they rip off the
20 public has got to be a bonanza.

21 So, Senator, I'll support the
22 bill because they're caught in a bind, but I'd
23 love to see that Rath bill which cuts back the
24 amounts the banks can charge and then we won't
25 have to do this to the consumer.

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

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

7 ACTING PRESIDENT KUHL: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 56.

11 ACTING PRESIDENT KUHL: The bill
12 is passed.

13 THE SECRETARY: Calendar Number
14 572, by Senator Marcellino, Senate Print 4130,
15 an act to amend the Environmental Conservation
16 Law, in relation to eliminating the requirement
17 that transported or relayed shellfish are
18 tagged.

19 ACTING PRESIDENT KUHL: Secretary
20 will read the last section.

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

23 ACTING PRESIDENT KUHL: Call the
24 roll.

25 (The Secretary called the roll.)

1 THE SECRETARY: Ayes 56.

2 ACTING PRESIDENT KUHL: The bill
3 is passed.

4 SENATOR SKELOS: Mr. President.

5 ACTING PRESIDENT KUHL: Senator
6 Skelos.

7 SENATOR SKELOS: If we could
8 return to Calendar Number 509.

9 ACTING PRESIDENT KUHL: Secretary
10 will read the title of Calendar Number 509, by
11 Senator Leibell.

12 THE SECRETARY: Calendar Number
13 509, by Senator Leibell, Senate Print 3610, an
14 act to amend the Executive Law, in relation to
15 providing for the Commissioner of the Division
16 of Housing.

17 SENATOR LEIBELL: Mr. President.

18 ACTING PRESIDENT KUHL: Senator
19 Gold?

20 SENATOR LEIBELL: Senator, we're
21 still waiting to get that, but I can send it
22 over to you by the time if you like tomorrow. I
23 don't have the information right here.

24 SENATOR GOLD: No, I appreciate
25 that, and, as I said, do you mind laying it

1 aside until tomorrow?

2 SENATOR LEIBELL: Well, Senator,
3 possibly we could do this. You could indicate
4 to me what information would help you.

5 SENATOR GOLD: Well, Senator, I
6 have a number of questions on the bill, and I
7 enjoy your company.

8 SENATOR LEIBELL: Thank you.

9 SENATOR GOLD: And I would not
10 mind spending some time asking those questions,
11 but the point is if there are other questions
12 that I have, I'll be glad to tell you or your
13 counsel or you what they are but why don't we
14 lay it over until tomorrow and get the questions
15 answered.

16 SENATOR LEIBELL: Well -

17 SENATOR GOLD: I don't think this
18 bill falls apart in 24 hours.

19 SENATOR LEIBELL: I doubt it,
20 though possibly you could give me the other
21 questions you'd like to have answered.

22 SENATOR GOLD: Yeah, but I don't
23 think that our colleagues have to sit around for
24 that, do they, unless you want to proceed with
25 the bill.

1 ACTING PRESIDENT KUHL: Senator
2 Leibell, it's your call. You wish to proceed
3 with the bill, debate on the bill, or you wish
4 to lay the bill aside for the day?

5 SENATOR LEIBELL: If we could, I'd
6 rather complete activity on this today,
7 Senator.

8 ACTING PRESIDENT KUHL: Senator
9 Gold, do you wish the sponsor to yield to
10 questions?

11 SENATOR GOLD: O.K. with me.
12 Senator, why don't we start off then, if we want
13 to discuss this issue, the bill as you explained
14 it adds the Commissioner of the Division for
15 Housing and Community Renewal to a statutory
16 list. Now, does everybody on that list get
17 appointed by the Governor to the Fire Prevention
18 Council?

19 SENATOR LEIBELL: There's a -
20 there is -- the Executive Law includes a list of
21 nine state agency officials from which the
22 Governor is authorized to select two as members
23 of the Council.

24 SENATOR GOLD: And which two has
25 he appointed so far?

1 SENATOR LEIBELL: I don't have
2 that information with me.

3 SENATOR GOLD: Well, Senator, I
4 don't ask you the questions to embarrass you.

5 SENATOR LEIBELL: Well, I'm not
6 -- and I'm not -

7 SENATOR GOLD: You're very active
8 -- you're active in legislation and you have a
9 lot on your mind, but I don't see anything wrong
10 with laying the bill aside for 24 hours and
11 getting some of the answers. I don't know what
12 the purpose is to forge forward on this huge
13 bill and not extend courtesies. You and I have
14 never had a problem with courtesies before,
15 Senator.

16 SENATOR LEIBELL: Absolutely not,
17 Senator. It's only a question of that there's a
18 volume of bills coming up that's going to be
19 very substantial and I'd rather be able to
20 complete this.

21 SENATOR GOLD: It's only a
22 question of what, Senator?

23 SENATOR LEIBELL: There's a
24 volume of bills coming up on the calendar in the
25 next few days that will be substantial.

1 SENATOR GOLD: And it may be,
2 Senator, that when you and I have a talk about
3 this, it turns out to be something we don't have
4 to discuss, but I'd just as soon have the
5 information before I have to make a judgment. I
6 think the questions are legitimate questions.

7 ACTING PRESIDENT KUHL: Senator
8 Leibell, it's up to you as to whether or not you
9 wish to proceed.

10 SENATOR LEIBELL: As I said, I
11 don't think it's relevant. I certainly would
12 have been -- if the question had been asked
13 before, I'd have been happy to get the
14 information. Senator, I'd rather pursue this
15 right now for completion.

16 ACTING PRESIDENT KUHL: Senator
17 Gold, you have the floor.

18 SENATOR GOLD: I don't have any
19 other questions. Slow roll call.

20 ACTING PRESIDENT KUHL: Secretary
21 will read the last section.

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

24 ACTING PRESIDENT KUHL: Call the
25 roll.

1 SENATOR GOLD: Slow roll.

2 SENATOR SKELOS: Please ring the
3 bell.

4 ACTING PRESIDENT KUHL: Ring the
5 bell. If there are five Senators, would they
6 stand? There are four, five standing Senators,
7 so the Secretary will read the roll call
8 slowly.

9 THE SECRETARY: Senator Abate.

10 SENATOR ABATE: I'd like to
11 explain my vote.

12 ACTING PRESIDENT KUHL: Senator
13 Abate, to explain her vote in two minutes.

14 SENATOR ABATE: I also had some
15 issues that need to be addressed and I'm looking
16 forward to the answers posed by my colleague and
17 since I do not understand the urgency either,
18 it's hard for me to vote on the merits of this
19 bill. So in the absence of getting that
20 information. I will have to vote no on this
21 bill.

22 ACTING PRESIDENT KUHL: Senator
23 Abate will be recorded in the negative.

24 Secretary will continue to call
25 the roll.

1 THE SECRETARY: Senator Alesi.

2 SENATOR ALESI: Yes.

3 THE SECRETARY: Senator Breslin.

4 SENATOR BRESLIN: Yes.

5 THE SECRETARY: Senator Bruno.

6 (There was no response.)

7 THE SECRETARY: Senator Connor.

8 (There was no response.)

9 Senator Cook.

10 (There was no response.)

11 THE SECRETARY: Senator

12 DeFrancisco.

13 (There was no audible response.)

14 Senator Dollinger.

15 SENATOR DOLLINGER: Explain my

16 vote.

17 ACTING PRESIDENT KUHL: Senator

18 Dollinger, to explain his vote in two minutes.

19 SENATOR DOLLINGER: I concur in

20 the sentiments expressed by Senator Abate and I

21 think will be expressed, have already been

22 expressed by Senator Gold. This is a bill that

23 a member has questions about. He's been told

24 that the information will not be forthcoming

25 today, that it will be here tomorrow.

1 With all due respect to the
2 sponsor, the notion that there are some large
3 number of very impressive bills that are coming
4 down the pike that we're going to debate
5 tomorrow, that will occupy the debate at least
6 to my perception that hasn't been true a single
7 day in this session that we couldn't wait one
8 single day that a member with legitimate
9 concerns could get information.

10 I think it's a horrible way to
11 govern. Maybe some people's idea of democracy.
12 It isn't my idea. I'm not commenting on the
13 merits of the bill, Mr. President. I'm going to
14 vote no, because I think this is a terrible
15 process to follow.

16 You ought to listen to Senator
17 Gold and just put the bill over for a day. No.

18 ACTING PRESIDENT KUHL: Senator
19 Dollinger will be recorded in the negative.

20 Secretary will continue to call
21 the roll.

22 THE SECRETARY: Senator Farley.

23 ACTING PRESIDENT KUHL: Senator
24 Farley, how do you vote?

25 SENATOR FARLEY: Aye.

1 ACTING PRESIDENT KUHL: Senator
2 Farley will be recorded in the affirmative.

3 THE SECRETARY: Senator Gentile.

4 SENATOR GENTILE: No.

5 THE SECRETARY: Senator Gold.

6 SENATOR GOLD: Mr. President.

7 ACTING PRESIDENT KUHL: Senator
8 Gold, to explain his vote.

9 SENATOR GOLD: Mr. President, we
10 went into session today about 3:00 o'clock. We
11 had some housekeeping, some resolutions. We
12 congratulated some people, and I think that we
13 started the calendar probably something around
14 3:30 and went through this whole calendar in
15 about 12 minutes, with this side of the aisle
16 extraordinarily cooperative, as we always are,
17 and a bill comes along where there are some
18 questions, and I find out on May 5th, a day
19 which is some, I guess some 36 days after the
20 budget, right? -- yeah, about 36 days after the
21 budget, sitting as a member of a house that
22 hasn't even passed a budget, hasn't even put a
23 budget out on the floor, that these hallowed
24 walls will fall apart if this bill was laid over
25 for a day.

1 I think that's an insult to this
2 chamber. I think that I'm particularly shocked
3 that the sponsor, who I hold in the highest
4 regard, and can't possibly understand his
5 rationale on this one, but I have to say to
6 myself that a bill which, under normal
7 circumstances, I guess would fly through here,
8 must have something wrong with it if it can't
9 stand the light of day for 24 hours and, to tell
10 you the truth, that makes me very nervous. I
11 certainly don't want to wake up tomorrow and
12 find out that there's a headline in the New York
13 Post or some other paper that tells me I've done
14 a terrible thing, and I should have asked some
15 questions.

16 So based upon the -- I guess the
17 reluctance of the sponsor, who I respect, to
18 want to allow a look at this bill, I have to
19 assume the bill can't stand on its own, and I
20 would vote in the negative.

21 ACTING PRESIDENT KUHL: Senator
22 Gold will be recorded in the negative.

23 Continue to call the roll.

24 THE SECRETARY: Senator
25 Gonzalez.

1 (There was no response.)
2 Senator Goodman.
3 SENATOR GOODMAN: No.
4 THE SECRETARY: Senator Hannon.
5 SENATOR HANNON: Yes.
6 THE SECRETARY: Senator
7 Hoffmann.
8 (There was no response.)
9 Senator Holland.
10 (There was no audible response.)
11 THE SECRETARY: Senator Johnson.
12 SENATOR JOHNSON: Aye.
13 THE SECRETARY: Senator Kruger.
14 SENATOR KRUGER: No.
15 THE SECRETARY: Senator Kuhl.
16 SENATOR KUHL: Aye.
17 THE SECRETARY: Senator Lachman.
18 SENATOR LACHMAN: No.
19 THE SECRETARY: Senator Lack
20 excused.
21 Senator Larkin.
22 (There was no response.)
23 Senator LaValle.
24 (There was no audible response.)
25 Senator Leibell.

1 (There was no audible response.)
2 Senator Leichter.
3 (There was no response.)
4 Senator Levy.
5 SENATOR LEVY: Aye.
6 THE SECRETARY: Senator Libous.
7 SENATOR LIBOUS: Aye.
8 THE SECRETARY: Senator Maltese.
9 SENATOR MALTESE: Aye.
10 THE SECRETARY: Senator
11 Marcellino.
12 SENATOR MARCELLINO: Aye.
13 THE SECRETARY: Senator Marchi
14 excused.
15 Senator Markowitz.
16 (There was no response.)
17 Senator Maziarz.
18 SENATOR MAZIARZ: Yes.
19 THE SECRETARY: Senator Meier.
20 SENATOR MEIER: Yes.
21 THE SECRETARY: Senator Mendez.
22 (There was no response.)
23 Senator Montgomery.
24 SENATOR MONTGOMERY: No.
25 THE SECRETARY: Senator Nanula.

1 SENATOR NANULA: No.

2 THE SECRETARY: Senator

3 Nozzolio.

4 (There was no response.)

5 Senator Onorato.

6 SENATOR ONORATO: No.

7 THE SECRETARY: Senator

8 Oppenheimer.

9 SENATOR OPPENHEIMER: No.

10 Senator Padavan.

11 (There was no response.)

12 Senator Paterson.

13 ACTING PRESIDENT KUHL: Senator

14 Paterson, to explain your vote?

15 SENATOR PATERSON: Thank you, Mr.

16 President.

17 I think that the process is
18 getting a little bit away from us in the
19 chamber. This isn't the biggest issue we've
20 ever debated, but nonetheless it is an issue and
21 which is that on many occasions a member may
22 seek information and be unable to obtain it and
23 the consensus would be that it's not going to
24 make a difference in the inevitable passage of
25 the legislation. We pass legislation, we go

1 forward, but in this case today the member was
2 feeling that he needed the information. I'm
3 referring to Senator Gold, that he needed the
4 information, in order to elicit what he needed
5 to ask questions on the bill, and what he was
6 simply asking for was the bill to be laid over
7 for a day or two just so he could have the
8 information and pose the questions, get the
9 answers that he wanted, and I think he was a
10 little disappointed that he couldn't get that
11 information.

12 I don't find anything wrong with
13 the actual bill, but I think that it's these
14 little things when you look at them in aggregate
15 which are the reason that we're standing here
16 some -

17 ACTING PRESIDENT KUHL: Excuse
18 me, Senator Paterson. Senator Paterson, you're
19 about a minute and 30 seconds into your explana
20 tion, you have about 30 seconds, but excuse me,
21 it's awfully noisy in here. Can we take the
22 conversations out at least so the desk can
23 record the votes that are being cast and so that
24 the stenographer can record what is being said.

25 Thank you. Thank you for

1 excusing the interruption, Senator Paterson.

2 SENATOR PATERSON: Thank you, Mr.
3 President.

4 In my last 30 seconds, I'd just
5 like to say that I think Senator Gold's point
6 was well taken and once in a while it isn't such
7 a bad thing that we pause in our deliberations
8 to go over these issues to make that point,
9 which is that we come to these decisions through
10 dialogue and through processing of information
11 that wasn't provided.

12 The bill was fine with me. The
13 process could be improved and, for that reason,
14 I'd like to support what Senator Gold is saying
15 and vote no.

16 ACTING PRESIDENT KUHL: Senator
17 Paterson will be recorded in the negative.

18 Continue to call the roll.

19 THE SECRETARY: Senator Present.

20 SENATOR PRESENT: Aye.

21 THE SECRETARY: Senator Rath.

22 SENATOR RATH: Aye.

23 THE SECRETARY: Senator Rosado.

24 SENATOR ROSADO: No.

25 THE SECRETARY: Senator Saland.

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SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson.

(There was no response.)

Senator Santiago.

(There was no audible response.)

Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Aye.

THE SECRETARY: Senator Skelos.

(There was no audible response.)

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Spano.

(There was no response.)

Senator Stachowski.

SENATOR STACHOWSKI: Mr.

President, to explain my vote.

ACTING PRESIDENT KUHL: Senator
Stachowski, to explain his vote.

SENATOR STACHOWSKI: Mr.

President, oftentimes we have bills much more
controversial than this one that are laid aside
for the day by the sponsor even in times that
are going to be more bills on the calendar than

1 everybody is anticipating in the next couple of
2 days; but it seems to me that it wasn't a real
3 difficult request by Senator Gold to just get a
4 day on this bill so that they could answer the
5 few questions that he had or the problems that
6 he had with this bill, and I'm just amazed that
7 he didn't get that courtesy and in most
8 instances that courtesy is regularly given by
9 the sponsor and also sometimes by the leader on
10 the other side, but unfortunately this time it
11 wasn't, and since it isn't a major bill or the
12 issue that isn't really that important I just
13 couldn't understand it, and because of that lack
14 of courtesy, I can't support this bill either.

15 I vote no.

16 ACTING PRESIDENT KUHL: Senator
17 Stachowski will be recorded in the negative.

18 Continue to call the roll.

19 THE SECRETARY: Senator
20 Stafford.

21 SENATOR STAFFORD: Aye.

22 THE SECRETARY: Senator
23 Stavisky.

24 SENATOR STAVISKY: No.

25 THE SECRETARY: Senator Trunzo.

1 SENATOR TRUNZO: Aye.
2 THE SECRETARY: Senator Tully.
3 SENATOR TULLY: Aye.
4 THE SECRETARY: Senator Velella.
5 (There was no response.)
6 Senator Volker.
7 (There was no response.)
8 Senator Waldon.
9 (There was no response.)
10 Senator Wright.
11 SENATOR WRIGHT: Aye.
12 ACTING PRESIDENT KUHL: Secretary
13 will call the absentees.
14 THE SECRETARY: Senator Connor.
15 (There was no response.)
16 Senator Cook.
17 SENATOR COOK: Yes.
18 THE SECRETARY: Senator
19 Gonzalez.
20 (There was no response.)
21 Senator Hoffmann.
22 (There was no response.)
23 Senator Larkin.
24 SENATOR LARKIN: Aye.
25 THE SECRETARY: Senator

1 Leichter.
2 (There was no response.)
3 Senator Markowitz.
4 SENATOR MARKOWITZ: No.
5 THE SECRETARY: Senator Mendez.
6 (There was no response.)
7 THE SECRETARY: Senator
8 Nozzolio.
9 SENATOR NOZZOLIO: Aye.
10 THE SECRETARY: Senator Padavan.
11 SENATOR PADAVAN: Yes.
12 THE SECRETARY: Senator Sampson.
13 SENATOR SAMPSON: No.
14 THE SECRETARY: Senator Spano.
15 (There was no response.)
16 Senator Velella.
17 (There was no response.)
18 Senator Volker.
19 SENATOR VOLKER: Yes.
20 THE SECRETARY: Senator Waldon.
21 (There was no response.)
22 ACTING PRESIDENT KUHL: Announce
23 the results.
24 THE SECRETARY: Ayes 32, nays
25 20.

1 ACTING PRESIDENT KUHL: The bill
2 is passed.

3 SENATOR SKELOS: Mr. President,
4 is there any housekeeping at the desk?

5 ACTING PRESIDENT KUHL: There are
6 five substitutions at the desk.

7 SENATOR SKELOS: Please make the
8 substitutions.

9 ACTING PRESIDENT KUHL: Secretary
10 will read the substitutions.

11 THE SECRETARY: Senator Holland
12 moves to discharge from the Committee on
13 Agriculture, Assembly Bill Number 2582-A and
14 substitute it for the identical Senate Bill
15 1758-A.

16 Senator Skelos moves to discharge
17 from the Committee on Veterans and Military
18 Affairs Assembly Bill Number 5811 and substitute
19 it for the identical Senate Bill 819-A.

20 Senator Trunzo moves to discharge
21 from the Committee on Health Assembly Bill 2017
22 and substitute it for the identical Senate Bill
23 708.

24 And Senator Wright moves to
25 discharge from the Committee on Alcoholism and

1 Drug Abuse Assembly Bill Number 5045 and
2 substitute it for the identical Senate Bill
3 3817.

4 Senator LaValle moves to
5 discharge from the Committee on Commerce,
6 Economic Development and Small Business Assembly
7 Bill Number 6449 and substitute it for the
8 identical Senate Bill 3685.

9 ACTING PRESIDENT KUHL:
10 Substitutions are ordered.

11 Senator Skelos? The Chair
12 recognizes Senator Mendez.

13 SENATOR MENDEZ: Mr. President, I
14 have to -- I was out of the chamber when the
15 slow roll call was called. If I would have been
16 here, I would have voted in the affirmative.

17 ACTING PRESIDENT KUHL: The
18 record will reflect that, Senator Mendez, had
19 you been here on the roll call which was
20 previously called on Calendar Number 509 that
21 you would have voted in the affirmative.

22 SENATOR MENDEZ: Thank you.

23 SENATOR SKELOS: Mr. President,
24 there being no further business, I move that we
25 adjourn until Tuesday, May 6th at 3:00 p.m.,

1 sharp.

2 ACTING PRESIDENT KUHL: Without
3 objection, the Senate stands adjourned until
4 tomorrow, Tuesday, at 3:00 p.m., tomorrow
5 Tuesday, at 3:00 p.m.

6 (Whereupon 4:56 p.m., the Senate
7 adjourned.)

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