ALBANY, NEW YORK

June 18, 1997

10:07 a.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Would everyone please rise and join with me in the Pledge of Allegiance.

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

May we bow our heads in a moment of silence.

(A moment of silence was observed.)

The reading of the Journal, please.

THE SECRETARY: In Senate, Tuesday, June 17th. The Senate met pursuant to adjournment. The Journal of Monday, June 16th, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from

state officers.

Motions and resolutions.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Madam President.

Madam President, I wish to call up my bill, Print Number 5253, recalled the Assembly which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Maziarz, Senate Print 5253, an act to amend the State Finance Law.

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

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 32.

THE PRESIDENT: The bill is restored to the Third Reading Calendar.

Senator Johnson.

SENATOR JOHNSON: Madam

President, please remove the sponsor's star which I have placed on Senate Calendar Numbers 1111 and 1112.

THE PRESIDENT: So ordered.

Senator Hannon.

SENATOR HANNON: Madam President, on page 26, I offer the following amendments to Calendar Number 773, which is Senate Print 4955. I ask that said bill are retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

Senator Volker.

SENATOR VOLKER: Madam President, number one, would you please -- I would like to place a star on Calendar Number 49 on page 16. That's Calendar Number 489 on page 16.

THE PRESIDENT: The bill is starred.

SENATOR VOLKER: I also would like to remove the star from Calendar -- my bill, Calendar Number 702.

THE PRESIDENT: So ordered.

SENATOR VOLKER: And I have a motion here for Senator LaValle.

Madam President, on page 41, on behalf of Senator LaValle, I offer the following amendments to Calendar Number 1152, Senate Print Number 5139-A, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

Senator Kuhl.

SENATOR KUHL: Yes, Madam President. On behalf of Senator Lack, on page 31, I offer the following amendments to Calendar Number -

THE PRESIDENT: Sorry. I can't hear you.

SENATOR KUHL: -- 877, Senate Print 2699-A, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

The Secretary will read the substitutions.

THE SECRETARY: On page 43, Senator Holland moves to discharge from the Committee on Rules Assembly Print 1470-A and substitute it for the identical Senate bill,

Third Reading 1263.

On page 43, Senator Trunzo moves to discharge from the Committee on Rules Assembly Print 5913 and substitute it for the identical Senate Third Reading 1271.

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, I believe that there is a privileged resolution by Senator Tully. I would ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Tully, Legislative Resolution commemorating the 25th Anniversary of Denton Green Senior Housing and the Dedication of a Memorial to the Founding President Harriet Rosenfield, June 26, 1997.

THE PRESIDENT: The question is on the resolution. All those in favor please signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

THE PRESIDENT: Senator Bruno.

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

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 102, by Senator Volker, Senate Print 808, an act to amend the Criminal Procedure Law, in relation to peace officers employed by Canisius College.

THE PRESIDENT: Read the last section, please.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 294, by Senator Meier, Senate Print 2149-A, an act to amend the Criminal Procedure Law and the Education Law.

SENATOR PATERSON: Lay that aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number

422, by Senator Levy, Senate Print 917, an act to amend the Public Authorities Law, in relation to requiring the Metropolitan Transportation Authority to implement and obtain subway station signs.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 630, by Senator LaValle, Senate Print 2657, an act to amend the Public Health Law, in relation to authorizing and directing the Commissioner of Health.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 634, by Senator Hannon, Senate Print 4132, an

act to amend the Public Health Law and the Education Law, in relation to exempting certain retired physicians.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 705, by Member of the Assembly Dinowitz, Assembly Print 2164, an act to amend the Private Housing Finance Law, in relation to increasing.

SENATOR BRUNO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 827, by Senator Larkin, Senate Print 4285, an act to amend the General Municipal Law, in relation to the powers of Industrial Development Agencies.

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

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

THE SECRETARY: Ayes 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 879, by member of the Assembly Luster, Assembly Print 5390, an act to amend the Arts and Cultural Affairs Law, in relation to printing records of enduring value.

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 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 884, by Senator Goodman, Senate Print 3541, an act to amend the Tax Law, in relation to the seizure and forfeiture of vehicles.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. 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 37.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 973, by Senator Holland, Senate Print 1763, an act to amend the Vehicle and Traffic Law, in relation to requiring certain identification information.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1001, by Senator Levy, Senate Print 4535-A, an act to amend the Vehicle and Traffic Law, in relation to registration period of apportioned vehicles.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1014, by Senator Levy, Senate Print 4864-B, an act to amend the Highway Law, in relation to the establishment of a program of railroad bridge inspection.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1015, by Senator Levy, Senate Print 4916, an act to amend the Vehicle and Traffic Law, in relation to suspension.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1076, by Senator Seward, Senate Print 3188-A, an act to amend the General Municipal Law, in relation to an intermunicipal agreement.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1170, by Senator LaValle, Senate Print 3286-A, an act to amend the Civil Rights Law, in relation to genetic tests.

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

THE SECRETARY: Section 6. This act shall take effect in 90 days.

SENATOR BRUNO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

We'll lay Calendar Number 1170 aside for the day. Calendar Number 1152 which was previously amended was not called.

The Secretary will continue to call the non-controversial calendar.

THE SECRETARY: Calendar Number 1220, by Senator Waldon, Senate Print 140, an act to amend the Criminal Procedure Law, in relation to misdemeanor complaints.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1239, restored earlier today by Senator Maziarz, Senate Print 5253, an act to amend the State Finance Law, in relation to establishing a transportation mobility revolving loan.

ACTING PRESIDENT KUHL: Senator Bruno.

SENATOR BRUNO: Is there a message at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR BRUNO: I move we accept the message.

ACTING PRESIDENT KUHL: All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1245, by Senator Skelos, Senate Print 180, an act to amend the Civil Practice Law and Rules and the Family Court Act.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1263, substituted earlier today by member of the Assembly Colman, Assembly Print 1470-A, an act to amend Chapter 672 of the Laws of 1993.

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 38.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1264, by Senator Alesi, Senate Print 948-A, an act to amend the Penal Law, in relation to endangering the welfare of a child.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1265, by Senator Kruger, Senate Print 1341, an act to amend the Military Law, in relation to authorizing the Governor.

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 41.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1266, by Senator Velella, Senate Print 1616-A, an act to amend the Insurance Law, in relation to certain provider notice to insurance companies.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1267, by Senator Onorato, Senate Print 1840, an act to amend the Education Law, in relation to limitations.

ACTING PRESIDENT KUHL: There is a home rule message at the desk -- excuse me. That's the next bill.

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 43.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1268, by Senator Maziarz, Senate Print 2783, an act to reopen the special retirement plan available to certain police officers.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1269, by Senator Trunzo, Senate Print 3276-A, an act to amend the Public Officers Law, in relation to activities by former state officers.

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 45.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1270, by Senator Marchi, Senate Print 3579-A, an act to amend the Not-for-Profit Corporation Law.

SENATOR BRUNO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1271, substituted earlier today by Member of the Assembly Vitaliano, Assembly Print 5913, an act to amend Chapter 695 of the Laws of 1994.

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 46.

ACTING PRESIDENT KUHL: The bill

is passed.

THE SECRETARY: Calendar Number 1272, by Senator Tully, Senate Print 3926, an act to amend the General Municipal Law, in relation to optional disability coverage.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1273, by Senator Skelos, Senate Print 4118-A, an act to amend the Civil Practice Law and Rules, in relation to the scope of a review.

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

THE SECRETARY: Section 2. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1274, by Senator Tully, Senate Print 4503, an act to amend the Family Court Act, in relation to the provision of restitution.

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 46.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1276, by Senator Volker, Senate Print 5218-A, an act to amend the Penal Law.

ACTING PRESIDENT KUHL: The bill is high. Lay the bill aside.

THE SECRETARY: Calendar Number

1278, by Senator Volker, Senate Print 5299, an act to commit the reopening of the optional 20-year retirement plan.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1279, by Senator Marcellino, Senate Print 5335, an act to authorize the town of Oyster Bay, Nassau County to deliver revenue anticipation notes.

ACTING PRESIDENT KUHL: There is a home rule message at the desk. The 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 1280, by Senator Velella, Senate Print 5421, an act to amend the Criminal procedure law, in relation to the commission of crimes against children.

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 47.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1281, by Senator Libous, Senate Print 5425, an act to amend the Tax Law, in relation to extending the authorization of the county of

Broome to impose an additional one percent sales and compensating use tax.

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 45, nays 2, Senators Dollinger and Gentile recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Please take up the controversial calendar.

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar beginning with Calendar Number 102 by Senator Volker on page 5.

THE SECRETARY: Calendar Number 102, by Senator Volker, Senate Print 808, an act to amend the Criminal Procedure Law, in relation to peace officers employed by Canisius College.

ACTING PRESIDENT KUHL: Senator Leichter -- 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.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

THE SECRETARY: Ayes 45, nays 2, Senators Gold and Leichter recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 294, by Senator Meier, Senate Print 2149-A -

SENATOR SKELOS: Lay the bill aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 630, by Senator LaValle, Senate Print 2657, an act to amend the Public Health Law, in relation to authorizing and directing the Commissioner of Health.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator LaValle, an explanation of Calendar Number 630 has been requested.

SENATOR LAVALLE: Thank you, Mr. President.

Senator Paterson, one of the issues facing our emergency personnel, our firefighter -- volunteer firefighters who aren't even paid firefighters, ambulance personnel and police personnel, is that after they have attended to someone at the scene of the accident, have brought that person to a facility, they are unaware of whether that individual has a communicable disease and so this bill makes an amendment to the Public Health Law authorizing and directing the Commissioner of Health to promulgate rules and regulations that will require a medical facility to give notice of the presence of a communicable

disease or other health risk to the emergency response personnel who have had certain contact with that individual.

That essentially is what the - what the bill does, Senator Paterson.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator LaValle will yield for a question.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT KUHL: Senator LaValle yields.

SENATOR PATERSON: Senator, the idea is good. What I would just like to ask is the federal government, I know at one point was interested in establishing policy on this subject nationwide. Has there been anything implemented so far?

SENATOR LAVALLE: I know that the federal government has, Senator Paterson, put into place certain definitions of communicable diseases and under what circumstances understanding what all our concerns are, the

privacy issues and how we deal with that and that's all I can basically say. It's the federal -- the federal government has by definition done that.

By the way, Senator, we, myself and others, have for a number of years had legislation to try to do what the federal government did and they were unsuccessful and I know that the emergency service personnel were quite pleased with the federal law and the regulations that have been promulgated and put into place defining the communicable diseases.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

On the bill. The risk that one would take in a situation like this really compels us to do something in this area, and I think that I want to applaud Senator LaValle for his work in the area. Should the federal government have promulgated its own regulations, we, of course, run the risk of this bill being preempted by federal statutes. As long as it doesn't, we have no problem with the bill.

Thank you.

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

THE SECRETARY: Section 2. 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 634, by Senator Hannon, Senate Print 4132, an act to amend the Public Health Law and the Education Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Hannon, an explanation of Calendar Number 634 has been requested.

SENATOR HANNON: Yes. This provision would allow in situations of a not-for-profit clinic those physicians who are already retired from practice and who are rendering services voluntarily without any compensation and explicitly without the

expectation of compensation to be immune from the medical malpractice.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

I will yield to Senator Dollinger.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, this is a bill that we considered in the Health Committee and there was a suggestion made in the Health Committee by Senator Abate which we have incorporated into an amendment which I now ask to be considered by the house. I would waive its reading and ask to be heard on the amendment, Mr. President.

ACTING PRESIDENT KUHL: Forgive me just a minute. We just received it at the desk, Senator Dollinger. I'll see whether or not it's germane.

SENATOR DOLLINGER: For the

record, Mr. President, I served a copy of this amendment on the Chairman of the Health Committee and the sponsor of the bill and sent copies to the Majority Leader, the Minority Leader as required by the rules.

ACTING PRESIDENT KUHL: We'll - Senator Dollinger, thank you.

We received your amendment. We'll waive the reading of it and we'll afford you the opportunity to explain the amendment right now if you would like to.

SENATOR DOLLINGER: Thank you, Mr. President.

Senator Hannon's bill which addresses a problem that exists in this state, the difficulty of, in many cases, not-for-profit community health centers or neighborhood health centers that have retired health physicians come into the neighborhood to provide services.

The question is should we suspend the normal rules of liability for those who receive those services from a retired physician? It seems to me that when we have suspended normal rules of liability in this state, we have provided notice and information

to the consumer that they will be aware of the waiver of liability before it occurs.

What this amendment seeks to do is create language that would be effective for both retired physicians and retired registered nurses. We expand the scope of this bill to include retired registered nurses. It would provide that there would be no liability on behalf of the consumer unless they could prove gross negligence and provided that the physician or the registered nurse gave to the consumer notice of the fact that his or her services are provided voluntarily and without the expectation of compensation and that, two, notifying them in order to recover, they would have to prove gross negligence, the theory being that if we're going to deviate from our traditional rules of liability because of the need to encourage retired physicians and retired registered nurses to come back into practice and help those who can't pay for medical services, we should give them notice of the fact that they are going - those actions are going to be held to a higher standard in order for an injured consumer to recover.

That's what this amendment does. It provides notice to the consumer that they will have to prove gross negligence in order to recover; two, that the services that are being provided without expectation of compensation and it puts the consumer in a position where we can sit -- where they can sit down and say before they take the services, they can evaluate the risk and the liability.

All this does, Mr. President - it doesn't quite parallel but it certainly is analogous to the waivers of liability, the written waivers of liability that are in effect for certain types of sporting events, for certain types of other activities in this state in which we have altered the rules of liability for socially beneficial purposes and at the same time before we do that, we give consumers notice of the fact that their conduct subjects them to a higher risk than they would otherwise be subjected to.

That's the purpose of the amendment. It really mirrors the intent of Senator Hannon's bill but this provides the notice to the consumers to give them the ability

to make an intelligent choice about whether they will accept these free but perhaps more risky services. They will know that before they go in and take the services.

That's the purpose of the amendment, Mr. President. I appreciate the opportunity to explain it and I offer it to the house.

ACTING PRESIDENT KUHL: Senator Hannon, on the amendment.

SENATOR HANNON: Yes, Mr. President. Thank you and I appreciate having had notice before the session began of what you intended to offer and it's always helpful because this has obviously come up in committee and some people feel very strongly, but I think the question is very clear-cut as to what we're trying to do.

We're trying to provide health care to people who would not at all have the services of this physician, this mythical physician, under the current system and there are a number of things you do in your amendment that I think are somewhat a gray area.

Should we be adding on other

health care professionals? You add on the nurses. Well, perhaps they haven't come to us. Perhaps we really don't have the same type of shortage. They're still not in the same type of key decision-making position that the doctors are. So we'll leave that aside.

The notice. Well, you can talk about what's another slip of paper. You walk into any type of health care provider these days and you're hit with a whole raft of papers and I'm not sure even the best lawyers are appreciative of what they're being handed or if there's a notice on the wall, what's going on.

So the heart of the matter, I think, comes down to what you talk about. You would say that instead of the immunity, you would rather have a liability for gross negligence or willful misconduct and it would be my contention that that would just put a harpoon through the purpose of the bill and we might as well not do it if that would be the case. And why would that be? Because we're dealing here with absolutely the retired physician. We're even exempting them from about the approximate $600 a year in registration fees they would have

to pay if they weren't truly retired and this is all voluntary. They can't get any compensation.

So that this is to a profession that has been, you know, just a matter of trying to keep alive here. It's a clinic that's being run. They're totally subject -- that's why the bill makes sure they're totally subject to the professional standards and Office of Professional Misconduct of this state. But why is it then you're so afraid? You say gross misconduct, because it still subjects them to the legal system. We're not even worried about the liability system at this point. It's the legal system, wherein the legal fees, the cost of getting a lawyer, the cost of hiring one, the cost of going to court, the time involved is going to be such a deterrent that if we were to put your suggestion into this statute and get the whole thing enacted, I don't think that we would have any of these volunteers.

So for that purpose, I would recommend we not do it and that we go back to the original intent of the bill, which is to get services to individuals who would not otherwise

have them and it's been interesting. This came up because of a local situation where some not-for-profit people wanted to offer the services. As it's been in for, I guess two years, we've heard a number of other situations around this state all on a very small scale basis.

So we're not going to be taking away from the regular care that we work so hard to do under our Medicaid system, under our bad debt and charity care. This is truly for the charity services to those who would not otherwise get them and for those reasons, I would recommend that we not accept this amendment.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment?

Senator Skelos.

SENATOR SKELOS: Mr. President, if I could just interrupt. There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT KUHL: Immediate meeting of the Rules Committee, immediate

meeting of the Rules Committee in the Majority Conference Room, Room 332.

Senator Dollinger, on the amendment.

SENATOR DOLLINGER: Mr. President, I appreciate the very cogent presentation from the Chairman of the Health Committee. I understand his position.

I too acknowledge the fact that perhaps putting this language in might discourage the very activity we're trying to encourage. I understand there's a risk of that, but I think from my perspective in looking at this -- because in other instances where we've modified the liability rules of this state, we do require that those who are modifying them and getting the benefit of them -- you jump out of an airplane, you get the little waiver of liability. You get the notice of liability.

I think that there should be something that notifies consumers about the fact that we're deviating from our otherwise simple negligence, simple malpractice rules, and I appreciate the Chairman's concern. I think this issue of providing small neighborhood services

-- I've got one in my own district. I'm very much aware of it but it just seems to me that to modify the rules without giving the consumer albeit another slip of paper -- I acknowledge that as well. As someone who hasn't used a lot of health care but on a number of occasions has had his children use health care, you're forever signing things. They always tell you to go ahead and read it and you tend to flip it over quickly, but I still think that this notice provision would provide some protection, perhaps only in a few instances where consumers would say, I don't really want to do that. I know I'm going to have to find some other source for it and under those circumstances, I continue to support the amendment.

I haven't made up my mind on the underlying bill, but I still think there's a benefit in telling the consumers about the fact that we're changing the rules.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment?

(There was no response.)

Hearing none, the question is on

the amendment. All those in favor of the amendment signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The amendment is defeated.

Is there any member wishing to speak on the bill?

Senator Leichter.

SENATOR LEICHTER: Mr. President, if the good Chairman of the Health Committee would yield.

ACTING PRESIDENT KUHL: Senator Hannon, do you yield to a question? The Senator yields.

SENATOR LEICHTER: Senator, I think there's a problem and I appreciate you're trying to deal with it, and while I supported Senator Dollinger's amendment, I don't think that was an ideal resolution to the problem and I can see some of the difficulties of doing that. It doesn't matter. That's history anyhow, but it seems to me there's a much better way of dealing with this and that's what I wanted to ask you whether that's been

considered.

I think that we ought to encourage retired doctors to come and provide the service. On the other hand, I don't like the idea of consumers getting, in effect, less careful treatment or lesser rights than other consumers. I mean, you're in the waiting room. You get seen by a regular doctor. If there's negligence, you have certain rights. If it just so happens you get seen by a doctor who's a retired doctor, under your bill, you lose certain rights.

Have you considered the possibility of setting up a state fund -- which would not have to be a very large fund -- that we would provide the insurance for retired doctors and in this way encouraging them to do what you want to do, which is laudatory, to practice and at the same time protecting the consumer?

SENATOR HANNON: Ultimately it may come to it, but I think you have to look at how we started with this legislation. This was not something where there's a large number of physicians going to serve. I mean, we have,

obviously in many parts of the state, underserved areas for physicians, rural and inner city, but there's some other places where there's a pool that have absolutely been retired. So the scale of what you're talking about is several orders of magnitude above the need that we're trying to match here. We're trying -- this is a very small scale. This is physicians serving at no pay, okay? This is truly voluntary.

I don't think that the pool would be sufficient and large enough for us to go in and have part of the state fund and have to have even an administrator but that would require attorneys and that would require us to be in the business of insurers of the last resort for that group. So, no, it wasn't because the need did not dictate that we have that type of response.

SENATOR LEICHTER: If you would be so good to continue to yield. Frankly, it seems to me your argument is really persuasive of the point that I'm trying to make. If there aren't that many doctors -

SENATOR HANNON: I'm sure, Senator, you feel that way, but I must put on

the record that I differ.

SENATOR LEICHTER: Well, hear my point. If, as you point out, we're really not dealing with that many doctors, and so on, and the course of the state is very strong -- it's not a matter that (a) you would need an administrator or have to hire lawyers, and so on. All you do is you provide those doctors. You provide the insurance that they're no longer paying, whatever that cost is. It's a very small amount. It doesn't require any administration. It encourages doctors to do what you want them to do and at the same time it protects consumers. That's a good public investment.

SENATOR HANNON: In response, I would simply say, it's not just a little thing. You don't just set up a little insurance fund. We have several volumes of the Insurance Law which we've passed in order to make sure that there are standards. You have to go into how much would you set aside, what are the reserves for that? Shall there be access to bad debt funds? What type of underwriting shall we do? How much shall we set aside? Every time a claim

is brought, somebody has to look at that. Someone has to put aside a reserve for that claim. I don't think it's a little thing.

As I go back to my original answer to your first question, that would be far greater a response to the need than is warranted.

SENATOR LEICHTER: Mr. President, just very briefly on the bill.

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: I appreciate Senator Hannon's comments but it seems to me that to have a resolution of this problem, whereby we really have a second class of patients, patients with less rights and the fact is that negligence occurs. Maybe it will occur more often. I assume it would occur more often with retired doctors. They've lost some of their skills. Their eyes aren't as good, whatever, and now you've got somebody who was injured, maybe very seriously, had a great loss and it's not compensable. I just think that's unfair.

Yes, we want retired doctors to

give their time and practice and, yes, we appreciate that many of them are not going to do it if they've got to take out insurance, pay a registration fee. Why can't the state under those circumstances come in?

I'm not persuaded by Senator Hannon saying, Well, you know, the Insurance Law, it's two big volumes and you've got to do- look at underwriting and this and that. That can easily be done. That can easily be done. We ought to do that and in this way we get the doctors, which is what we want. We protect the consumers, the patients. We don't have a second class of patients and I think it's perfectly sensible. In fact, it's a very desirable resolution to this problem.

I have difficulty voting for this bill because I think you are putting patients at risk. You're creating an inferior category of patients, and I don't think we should do that.

SENATOR DOLLINGER: Mr. President.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Would Senator

Leichter yield to a question?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR DOLLINGER: Senator Leichter, you raised the prospect of the state doing this. Is it possible that we could use the MMIA, a source of funds which currently has $1 billion or more in it. It's now used for excess coverage for our physicians that are in practice. The state government has raided the fund for hundreds of millions of dollars in the last six years. There's plenty of cash in there. We've got a system of handling claims and adjudicating claims and defending claims on behalf of physicians.

Are you suggesting that we should use the MMIA and set up a system under which physicians who want to volunteer could register with this service and then be covered to the full extent of their malpractice coverage through the MMIA, a socially beneficial insurance company to protect consumers and physicians?

SENATOR LEICHTER: Well, that's

my point. I think it can be readily done and I think you've shown us one way that it could be done and, in fact, in a way that probably would have no cost whatsoever to the taxpayers of the state, yes. There are better solutions than Senator Hannon's.

SENATOR DOLLINGER: Mr. President, if I could just continue. Senator Leichter's idea, he obviously is thinking with his southern mind. That's almost exactly what they did in the state of Florida, Senator Leichter. They set up an insurance company - set up an insurance apparatus and used one that was currently in existence to pay the claims and to adjudicate the claims for volunteers.

I would simply suggest, Senator Leichter, that perhaps next year if this bill comes back, we'll put that idea on the table as well and perhaps have a debate on the merits of that as well if we seek to amend this bill in the future.

Thank you.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr.

President.

I'm going to vote against this bill. The standard of care, the value of that standard is something that I think has to be preferred over all other considerations, even though I really appreciate the fact that we would be trying to do something for individuals who have a highly skilled ability in a certain area, in this case, the medical field and will dedicate their services to the public, but the reality is that, in the end, Senator Leichter is right. There has to be a uniform standard for patients that come into a facility and even with the amendment that Senator Dollinger offered, there still is a certain sense of duress that I think the consumer feels, because even with the notice, the general feeling is that there are not many cases in which there is going to be negligence on the part of a health care professional whose ability is that of a doctor.

The fact is that once in a while in very few cases but in those cases there is, and when it occurs, there has to be equal protection to the consumer. I just feel there has got to be a way. I think Senator

Dollinger's suggestion about the MMIA fund is a way, I think the idea that perhaps the state itself could fund the insurance for these volunteers -- there aren't that many volunteers. I understand that perhaps this is one where perhaps we could look the other way, but I think that perhaps to keep the whole system in context, it would be preferred that we find some way to accomplish what Senator Hannon is directing us in his legislation but to do it in some way that maintains the equilibrium of care for consumers all throughout the state.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the bill?

(There was no response.)

Hearing none, the Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the negatives and announce the results.

THE SECRETARY: Those recorded in

the negative on Calendar Number 634, Senators Abate, Breslin, Connor, Dollinger, Gentile, Leichter, Onorato, Paterson and Sampson. Ayes 42, nays 9.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Leichter, why do you rise?

SENATOR LEICHTER: May I have unanimous consent to be recorded in the negative on Calendar Number 827.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Leichter will be recorded in the negative on Calendar Number 827.

SENATOR MAZIARZ: Mr. President.

ACTING PRESIDENT KUHL: Senator Maziarz.

SENATOR MAZIARZ: Mr. President, in the rare times that I agree with Senator Leichter, I also would ask unanimous consent to be recorded in the negative on Calendar Number 827.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Maziarz

will be recorded in the negative on Calendar Number 827.

Senator Maziarz.

SENATOR MAZIARZ: Mr. President, could we take up Calendar Number 294.

ACTING PRESIDENT KUHL: The Secretary will read the title to Calendar Number 294.

THE SECRETARY: Calendar Number 294, by Senator Meier, Senate Print 2149-A, an act to amend the Criminal Procedure Law and the Education Law.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Maziarz, that completes the reading of the controversial calendar.

SENATOR MAZIARZ: Mr. President,

could we at this time return to motions and resolutions. I believe that there is a privileged resolution by Senator Connor at the desk.

ACTING PRESIDENT KUHL: We'll return to the general order of motions and resolutions. There is a privileged resolution at the desk.

I'll ask the Secretary to read it in its entirety.

SENATOR CONNOR: Yes. Thank you, Mr. President.

ACTING PRESIDENT KUHL: In its entirety.

THE SECRETARY: By Senator Connor, Legislative Resolution congratulating Rebecca Sealfon, 13, of Brooklyn Heights, New York, upon her championship performance at the 70th Annual Scripps-Howard National Spelling Bee held May 29th, 1997 in Washington, D.C.;

WHEREAS, it is the sense of this legislative body to commend and congratulate those individuals from the state of New York who accomplish outstanding feats of achievement, increasing self-confidence and imparting pride

upon themselves, their families and their community.

Attendant to such concern in full accord with its long-standing traditions, it is the sense of this legislative body to honor and congratulate Rebecca Sealfon upon becoming the 1997 and the first New York City champion of the 70th Annual Scripps-Howard National Spelling Bee held May 29th, 1997 at the Grand Hyatt Hotel in Washington, D.C.

Choosing to be taught at home by her mother, Celia Gelertner Sealfon, for the past five years, Rebecca out-performed 245 contenders in this celebrated national event that assembles our young adults from across the country for two days of exciting competition.

The road to victory commenced when 65 public and private New York City schools competed in the Annual 1997 New York City Spelling Bee Competition.

After placing eighth in last year's national competition, Rebecca utilized the positive benefits of those experiences on this year's meticulous but steady course to Washington, D.C.

By the 14th round, this Daily News New York City Spelling Bee co-champion held her own against 11-year-old Prem Murthy Trivedi of Howell, New Jersey. By the 22nd round, Trivedi faltered while Rebecca stayed the course. According to the competition rules, Rebecca had to spell just one more time for the title.

Prior to today, that word was not a well known term. With ancient Greek origins and not found in many dictionaries, "Euonym" was the word that gave Rebecca Sealfon the championship;

WHEREAS, defined by Webster as "having an auspicious name", champion is an exemplary euonym for Rebecca Sealfon; now, therefore, be it

RESOLVED, that this legislative body because in its deliberations to c-o-m-m-e-n-d and c-o-n-g-r-a-t-u-l-a-t-e Rebecca upon her championship performance and upon becoming the first New York City national title winner at the 70th Annual Scripps-Howard National Spelling Bee held May 29th, 1997; and be it further

RESOLVED, that a copy of this resolution, suitably engrossed, be transmitted to Rebecca Sealfon, of Brooklyn Heights, New York.

THE PRESIDENT: Senator Connor.

SENATOR CONNOR: Madam President, it is indeed with a great deal of pride that we welcome here and congratulate in this resolution a New Yorker, a constituent, someone that I think we're all proud of. Certainly we -- and I'm joined by Assemblywoman Millman -- we who represent Brooklyn Heights are proud of Rebecca, proud of her accomplishment and look forward in the future to, I'm sure, her success as she moves on in her educational endeavors.

Rebecca is here. She is joined by her mother Celia, by her sister Rachael and by her brother Adam. I know her father Stewart is here in spirit but, of course, he's a physician and I'm sure has other things to do today, but we are delighted that Rebecca is here with her family and we're just so very, very proud of her ability to spell a word that I can't say.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator Connor.

Is there any other Senator who would like to speak on the resolution?

(There was no response.)

The question is on the resolution. All in favor please signify by saying aye.

SENATOR CONNOR: Madam President.

THE PRESIDENT: Senator.

SENATOR CONNOR: Can we open this resolution up to sponsorship by the entire body.

THE PRESIDENT: All Senators will be on the resolution unless they choose to indicate not to. Thank you.

The question is on the resolution. All in favor please signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

(Applause)

SENATOR GOLD: Madam President.

THE PRESIDENT: Senator Gold.

SENATOR GOLD: Madam President, I was at the Rules Committee doing my job, as I know you're doing your job brilliantly in this room, and I missed the vote on Calendar Number 634. I would appreciate unanimous consent to be recorded in the negative. I'm not usually a negative person.

THE PRESIDENT: Yes. Without objection, you will be recorded in the negative.

Do I hear any objection?

SENATOR PRESENT: No objection.

THE PRESIDENT: There being no objection, you will be recorded in the negative.

Senator Johnson -- Senator Present.

SENATOR PRESENT: Madam President.

THE PRESIDENT: Yes, Senator.

SENATOR PRESENT: Let the Senate stand at ease for a few moments.

THE PRESIDENT: The Senate will stand at ease.

(Whereupon, the Senate stood at

ease.)

SENATOR PRESENT: Madam President.

THE PRESIDENT: Senator Present.

SENATOR PRESENT: Would you recognize Senator Smith.

THE PRESIDENT: Senator Smith.

SENATOR SMITH: Thank you, Madam President.

I request unanimous consent to be recorded in the negative on Calendar Number 634.

THE PRESIDENT: Do I hear any objection?

(There was no response.)

There is unanimous consent that you will be recorded in the negative. Thank you.

The Senate will stand at ease.

(Whereupon, the Senate stood at ease from 11:06 a.m. until 11:15 a.m.)

THE PRESIDENT: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Madam President, if we could return to reports of standing

committees, I believe there's a report of the Rules Committee at the desk. I ask that it be read.

THE PRESIDENT: Yes. The Secretary will read.

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

Senate Print 1553, by Senator Marchi, an act to amend the Education Law;

2152, by Senator Rath, an act to amend the Criminal Procedure Law;

2516, by Senator Stavisky, an act to amend the Tax Law;

2998, by Senator Larkin, an act to amend the Criminal Procedure Law;

3011-A, by Senator Farley, an act authorizing the trustees of the City University of New York;

3226, by Senator LaValle, an act to amend the Criminal Procedure Law;

3274, by Senator Trunzo, an act to amend the Civil Service Law;

3851, by Senator Volker, an act to amend the Retirement and Social Security Law;

3927, by Senator Tully, an act to amend the Retirement and Social Security Law;

4116, by Senator Present, an act to amend the Criminal Procedure Law;

4414, by Senator Velella, an act in relation to designating;

4698, by Senator Tully, an act to amend the Penal Law;

4727, by Senator Trunzo, an act to amend Chapter 929 of the laws;

4907-A, by Senator Trunzo, an act to authorize the Word of Jesus Outreach Center;

5053, by Senator Libous, an act to repeal paragraph 3;

5104-A, by Senator Trunzo, an act amend the Retirement and Social Security Law;

5126, by Senator Larkin, an act to amend the Retirement and Social Security Law;

5256, by Senator Marchi, an act to amend the Real Property Tax Law;

5265, by Senator Johnson, an act to amend the Criminal Procedure Law;

5326, by Senator Volker, an act to amend the Civil Practice Law and Rules;

5356, by Senator Saland, an act

to amend the Penal Law;

5385, by Senator Johnson, an act to amend the Environmental Conservation Law;

5400, by Marcellino, an act to amend the Public Service Law;

5438, by Senator Kuhl, an act to amend the Criminal Procedure Law;

5447, by Senator Meier, an act to amend the General Municipal Law;

5448, by Senator DeFrancisco, an act to amend the Alcoholic Beverage Control Law;

5450, by Senator Holland, an act to amend the Real Property Tax Law;

5459, by Senator Wright, an act to amend Chapter 533 of the Laws of 1993;

5460, by Senator Maziarz, an act to amend Chapter 906 of the Laws of 1984;

5463, by Senator Lachman, an act to amend the Railroad Law;

5464, by Senator Rath, an act to amend the Local Finance Law;

5472, by Senator Rath, an act to amend Chapter 719 of the laws of 1980;

5482, by Senator Holland, an act to amend the Highway Law.

All bills directly for third reading.

SENATOR WALDON: Madam President.

THE PRESIDENT: Without objection, all bills direct to third reading.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Majority in the Majority Conference Room. The Senate will stand at ease.

THE PRESIDENT: There will be an immediate meeting of the Majority in the Majority Conference Room. The Senate will stand at ease.

Senator Waldon, excuse me.

SENATOR WALDON: Thank you very much, Madam President.

Most regrettably I was out of the chamber on other business for the Senate when this chamber considered Calendar 634, Senate Bill 413-A. I respect unanimous consent to be recorded in the negative on that bill.

THE PRESIDENT: Is there any objection?

SENATOR SKELOS: There's no

objection.

THE PRESIDENT: Without objection.

SENATOR WALDON: Thank you very much, Madam President.

SENATOR SKELOS: Madam President, we do have some housekeeping, if we could do that before we stand at ease.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

On behalf of Senator Levy, on page 18, I offer the following amendments to Calendar Number 541, Senate Print Number 610, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR LIBOUS: Madam President, on behalf of Senator Levy, on page 34, I offer the following amendments to Calendar Number 963, Senate Print Number 608, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR LIBOUS: Madam President, on behalf of Senator Spano, on page 6, I offer the following amendments to Calendar Number 137, Senate Print Number 689, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR LIBOUS: And, Madam President, on behalf of Senator Marchi, I move to amend Senate Bill Number 3579-A, Calendar Number 1270, by striking out the amendments made on May 13th and restoring it to the original Print Number 3579-A.

THE PRESIDENT: The amendments will be struck.

SENATOR LIBOUS: Thank you.

SENATOR SKELOS: Is there any other housekeeping?

THE PRESIDENT: No.

SENATOR SKELOS: Would you please recognize Senator Santiago and then Senator Montgomery.

THE PRESIDENT: Yes. Senator Santiago.

SENATOR SANTIAGO: Madam

President, I would like to state for the record that had I been in the chamber on Monday, June 2nd, I would have voted in the negative on Calendars 557, 713, 933 and 964.

Thank you.

THE PRESIDENT: So recorded.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like unanimous consent to be recorded in the negative on Calendar 634.

THE PRESIDENT: Do I hear any objection?

SENATOR MONTGOMERY: Thank you.

THE PRESIDENT: Without objection.

Senator Skelos.

SENATOR SKELOS: Immediate conference of the Majority and the Senate will stand at ease.

THE PRESIDENT: The Senate will stand at ease.

SENATOR PATERSON: Madam President, for those who are not invited to that Majority Conference, there will be a special closed circuit viewing in the Minority

Conference Room open to Minority members in Room 315.

Thank you.

(Whereupon, the Senate stood at ease from 11:15 a.m. until 4:30 p.m.)

THE PRESIDENT: The Senate will come to order.

SENATOR KUHL: Could we return to the order of motions and resolutions and take up some housekeeping that's at the desk.

THE PRESIDENT: Yes.

SENATOR KUHL: Madam President, on behalf of Senator Meier, on page 30, I offer the following amendments to Calendar Number 855, Senate Print 3307, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: Madam President, on page 23, on behalf of Senator Present, I offer the following amendments to Calendar Number 672, Senate Print 4125, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments

are received.

SENATOR KUHL: And, Madam President, on behalf of Senator Leibell, on page 9, I offer the following amendments to Calendar Number 258, Senate Print 2859, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: Also, Madam President, on behalf of Senator Skelos, on page 45, I offer the following amendments to Calendar Number 223, Senate Print 476, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: Also on behalf of Senator Leibell, Madam President, on page 8, I offer the following amendments to Calendar Number 178, Senate Print 2227, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: On behalf of Senator Levy, Madam President, on page 47, I offer the following amendments to Calendar Number 1018, Senate Print 5134, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: Also on behalf of Senator Levy, on page 37, I offer the following amendments to Calendar Number 1008, Senate Print 4710, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: Also, Madam President, on behalf of Senator Levy, on page 22, I offer the following amendments to Calendar Number 671, Senate Print 4114, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: Madam President, on behalf of Senator Goodman, on page 24, I

offer the following amendments to Calendar Number 719, Senate Print 5031, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: On behalf of Senator Marchi, Madam President, on page 39, I offer the following amendments to Calendar Number 1045, Senate Print 3649-A, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: On behalf of Senator Nozzolio, Madam President, on page 15, I offer the following amendments to Calendar Number 437, Senate Print 212-A, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: Madam President, on behalf of Senator Maziarz, on page 27, I offer the following amendments to Calendar

Number 784, Senate Print 5081, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR KUHL: Madam President, on behalf of Senator Larkin, I wish to call up his bill, Senate Print 1724, recalled from the Assembly which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Larkin, Senate Print 1724, an act to amend the County Law.

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

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

SENATOR KUHL: I offer up the following amendments.

THE PRESIDENT: The amendments

are received.

SENATOR KUHL: On behalf of Senator Cook, I wish to call up his bill, Senate Print 780, recalled from the Assembly which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Cook, Senate Print 780, an act to amend the General Municipal Law.

SENATOR KUHL: Madam President, I now move to reconsider the vote by which the bill was passed.

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

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

THE PRESIDENT: The amendments are received.

SENATOR KUHL: Madam President, on behalf of Senator Goodman, I move to recommit Senate Print 3658, Calendar Number 1227, which

is currently on the order of third reading to the Committee on Investigations, Taxation and Governmental Operations.

THE PRESIDENT: The bill will be recommitted.

SENATOR KUHL: Finally, Madam President, on behalf of Senator Present, I wish to call up his bill, Senate Print 765, recalled from the Assembly which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Present, Senate Print 765, an act to amend the State Administrative Procedure Act.

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

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

THE PRESIDENT: The bill is before the house.

SENATOR KUHL: Finally, Madam

President, on behalf of Senator Maziarz, on page 11, I offer the following amendments to Calendar Number 320, Senate Print 507-A, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

Senator Paterson.

SENATOR PATERSON: Thank you, Madam President.

The record will reflect that for the past few days, the Senate Minority has filed motions indicating our intent to suspend the rules and to move bills from committee that would have extended the Emergency Tenant Protection Act for a month and would provide other relief for tenants who would be afflicted should the rent regulation protections run out.

We have kept these motions alive. However, having understood as we all did understand, that an agreement had been reached at the appropriate time Sunday evening, we have not chosen to go forward with these motions or even to make that attempt. Since we understand that the parties are presumably negotiating in

good faith, we want to respect that process. We do not want to create any kind of an atmosphere that would create any acrimony or disharmony in the actual process.

However, Madam President, we've now reached the period of nearly 5:00 o'clock on Wednesday afternoon, still an agreement has not been reached. We are not totally sure what that does to the law. We don't know what challenges might be made. We don't know what risk may be taken and certainly what dangers many tenants may be in.

We will continue this afternoon not to attempt to move any of these pieces of legislation. However, we would like to caution all concerned that our interest is to fulfill what we feel is our promise to tenants and also our obligation to all citizens around the state that we rectify this issue and negotiate to a point where all can agree and that we do it as soon as possible. If not, we would like to make it clear that immediately we will move to discharge bills that would at least create an extension of a protection for one month to give the parties an opportunity to negotiate.

I want to thank you for the opportunity to speak, Madam President, and I want to thank the Minority Leader, Senator Connor, and the Majority Leader, Senator Bruno, for their efforts to try to resolve this matter, and I want to thank everybody.

THE PRESIDENT: Thank you, Senator Paterson.

Senator Bruno.

SENATOR BRUNO: Madam President -- you're very welcome, Senator Paterson, and in a response partially to the comments, let me just do a quick update. We have been talking. We have been negotiating. We have had counsels meeting and we are anxious to get this issue to prepare a bill resolved and voted on, and I'm hopeful that -- and optimistic -- the counsels, I believe are meeting right now -- that this will happen some time between now and 10:00 or 11:00 tonight.

My schedule was that once they have finalized agreement, it will take two or three hours to print and refine. They still haven't finalized agreement. That takes us to 8:00 or 9:00 o'clock at best and probably more

towards midnight. We are prepared tomorrow to be in session at 10:00 and to take the bill up as the first order of business. We also have other business, the emergency extension for the budget to take up.

So hopefully it will be a productive day. The Minority understands and we understand that they have prerogatives within the rules of the Senate. They are free to exercise those at any time and we will relate to those as they are presented to us on the floor.

Our intent is to move, as we do usually, as expeditiously as we can to a satisfactory resolution. We had an agreement on this particular bill on Sunday. We're trying to implement that agreement and all parties are still optimistic that we can get that done, hopefully this evening, as I said, and be in session tomorrow.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: I want to thank the Majority Leader for his efforts and his interest, and I would just like to clarify, Madam President, that you have received under Rule XI our motions today that are within the

one-day period of notice for the two pieces of legislation that we continue.

THE PRESIDENT: Yes. The motions have been received and are stamped so.

Senator Bruno.

SENATOR BRUNO: Madam President, there being no further business to come before the Senate, I would move that we stand adjourned until 10:00 a.m. tomorrow morning.

THE PRESIDENT: Upon motion, the Senate stands adjourned until Thursday, June 19th, at 10:00 a.m.

(Whereupon, at 4:40 p.m., the Senate adjourned.)