

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ALBANY, NEW YORK

June 18, 1997

10:07 a.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

1 state officers.

2 Motions and resolutions.

3 Senator Maziarz.

4 SENATOR MAZIARZ: Thank you,
5 Madam President.

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

9 THE PRESIDENT: The Secretary
10 will read.

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

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

17 THE PRESIDENT: Call the roll on
18 reconsideration, please.

19 (The Secretary called the roll on
20 reconsideration.)

21 THE SECRETARY: Ayes 32.

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

24 Senator Johnson.

25 SENATOR JOHNSON: Madam

1 President, please remove the sponsor's star
2 which I have placed on Senate Calendar Numbers
3 1111 and 1112.

4 THE PRESIDENT: So ordered.
5 Senator Hannon.

6 SENATOR HANNON: Madam President,
7 on page 26, I offer the following amendments to
8 Calendar Number 773, which is Senate Print
9 4955. I ask that said bill are retain its place
10 on the Third Reading Calendar.

11 THE PRESIDENT: The amendments
12 are received.

13 Senator Volker.

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

18 THE PRESIDENT: The bill is
19 starred.

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

23 THE PRESIDENT: So ordered.

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

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

6 THE PRESIDENT: The amendments
7 are received.

8 Senator Kuhl.

9 SENATOR KUHL: Yes, Madam
10 President. On behalf of Senator Lack, on page
11 31, I offer the following amendments to Calendar
12 Number -

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

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

18 THE PRESIDENT: The amendments
19 are received.

20 The Secretary will read the
21 substitutions.

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

1 Third Reading 1263.

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

6 THE PRESIDENT: Senator Bruno.

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

11 THE PRESIDENT: The Secretary
12 will read.

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

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

21 (Response of "Aye".)

22 Opposed, nay.

23 (There was no response.)

24 The resolution is adopted.

25 THE PRESIDENT: Senator Bruno.

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

4 THE PRESIDENT: The Secretary
5 will read.

6 THE SECRETARY: Calendar Number
7 102, by Senator Volker, Senate Print 808, an act
8 to amend the Criminal Procedure Law, in relation
9 to peace officers employed by Canisius College.

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

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

14 SENATOR PATERSON: Lay it aside.

15 ACTING PRESIDENT KUHL: Lay the
16 bill aside.

17 THE SECRETARY: Calendar Number
18 294, by Senator Meier, Senate Print 2149-A, an
19 act to amend the Criminal Procedure Law and the
20 Education Law.

21 SENATOR PATERSON: Lay that
22 aside.

23 ACTING PRESIDENT KUHL: Lay the
24 bill aside.

25 THE SECRETARY: Calendar Number

1 422, by Senator Levy, Senate Print 917, an act
2 to amend the Public Authorities Law, in relation
3 to requiring the Metropolitan Transportation
4 Authority to implement and obtain subway station
5 signs.

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

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

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 37.

14 ACTING PRESIDENT KUHL: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 630, by Senator LaValle, Senate Print 2657, an
18 act to amend the Public Health Law, in relation
19 to authorizing and directing the Commissioner of
20 Health.

21 SENATOR PATERSON: Lay it aside.

22 ACTING PRESIDENT KUHL: Lay the
23 bill aside.

24 THE SECRETARY: Calendar Number
25 634, by Senator Hannon, Senate Print 4132, an

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

4 SENATOR DOLLINGER: Lay it aside.

5 ACTING PRESIDENT KUHL: Lay the
6 bill aside.

7 THE SECRETARY: Calendar Number
8 705, by Member of the Assembly Dinowitz,
9 Assembly Print 2164, an act to amend the Private
10 Housing Finance Law, in relation to increasing.

11 SENATOR BRUNO: Lay it aside.

12 ACTING PRESIDENT KUHL: Lay the
13 bill aside.

14 THE SECRETARY: Calendar Number
15 827, by Senator Larkin, Senate Print 4285, an
16 act to amend the General Municipal Law, in
17 relation to the powers of Industrial Development
18 Agencies.

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

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

23 THE SECRETARY: Ayes 37.

24 ACTING PRESIDENT KUHL: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 879, by member of the Assembly Luster, Assembly
3 Print 5390, an act to amend the Arts and
4 Cultural Affairs Law, in relation to printing
5 records of enduring value.

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

8 THE SECRETARY: Section 2. This
9 act shall take effect immediately.

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

13 THE SECRETARY: Ayes 37.

14 ACTING PRESIDENT KUHL: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 884, by Senator Goodman, Senate Print 3541, an
18 act to amend the Tax Law, in relation to the
19 seizure and forfeiture of vehicles.

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

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

25 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 37.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 973, by Senator Holland, Senate Print 1763, an
8 act to amend the Vehicle and Traffic Law, in
9 relation to requiring certain identification
10 information.

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

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

15 ACTING PRESIDENT KUHL: Call the
16 roll.

17 (The Secretary called the roll.)

18 THE SECRETARY: Ayes 38.

19 ACTING PRESIDENT KUHL: The bill
20 is passed.

21 THE SECRETARY: Calendar Number
22 1001, by Senator Levy, Senate Print 4535-A, an
23 act to amend the Vehicle and Traffic Law, in
24 relation to registration period of apportioned
25 vehicles.

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

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

5 ACTING PRESIDENT KUHL: Call the
6 roll.

7 (The Secretary called the roll.)

8 THE SECRETARY: Ayes 38.

9 ACTING PRESIDENT KUHL: The bill
10 is passed.

11 THE SECRETARY: Calendar Number
12 1014, by Senator Levy, Senate Print 4864-B, an
13 act to amend the Highway Law, in relation to the
14 establishment of a program of railroad bridge
15 inspection.

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

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

20 ACTING PRESIDENT KUHL: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 38.

24 ACTING PRESIDENT KUHL: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1015, by Senator Levy, Senate Print 4916, an act
3 to amend the Vehicle and Traffic Law, in
4 relation to suspension.

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

7 THE SECRETARY: Section 2. This
8 act shall take effect immediately.

9 ACTING PRESIDENT KUHL: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 38.

13 ACTING PRESIDENT KUHL: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1076, by Senator Seward, Senate Print 3188-A, an
17 act to amend the General Municipal Law, in
18 relation to an intermunicipal agreement.

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

21 THE SECRETARY: Section 2. 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 38.

2 ACTING PRESIDENT KUHL: The bill
3 is passed.

4 THE SECRETARY: Calendar Number
5 1170, by Senator LaValle, Senate Print 3286-A,
6 an act to amend the Civil Rights Law, in
7 relation to genetic tests.

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

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

12 SENATOR BRUNO: Lay it aside.

13 ACTING PRESIDENT KUHL: Lay the
14 bill aside.

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

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

20 THE SECRETARY: Calendar Number
21 1220, by Senator Waldon, Senate Print 140, an
22 act to amend the Criminal Procedure Law, in
23 relation to misdemeanor complaints.

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

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

3 ACTING PRESIDENT KUHL: Call the
4 roll.

5 (The Secretary called the roll.)

6 THE SECRETARY: Ayes 38.

7 ACTING PRESIDENT KUHL: The bill
8 is passed.

9 THE SECRETARY: Calendar Number
10 1239, restored earlier today by Senator Maziarz,
11 Senate Print 5253, an act to amend the State
12 Finance Law, in relation to establishing a
13 transportation mobility revolving loan.

14 ACTING PRESIDENT KUHL: Senator
15 Bruno.

16 SENATOR BRUNO: Is there a
17 message at the desk?

18 ACTING PRESIDENT KUHL: There is.

19 SENATOR BRUNO: I move we accept
20 the message.

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

23 (Response of "Aye".)

24 Opposed, nay.

25 (There was no response.)

1 The message is accepted.

2 The Secretary will read the last
3 section.

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

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 38.

10 ACTING PRESIDENT KUHL: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 1245, by Senator Skelos, Senate Print 180, an
14 act to amend the Civil Practice Law and Rules
15 and the Family Court Act.

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

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

20 ACTING PRESIDENT KUHL: Call the
21 roll.

22 (The Secretary called the roll.)

23 THE SECRETARY: Ayes 38.

24 ACTING PRESIDENT KUHL: The bill
25 is passed.

1 THE SECRETARY: Calendar Number
2 1263, substituted earlier today by member of the
3 Assembly Colman, Assembly Print 1470-A, an act
4 to amend Chapter 672 of the Laws of 1993.

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

7 THE SECRETARY: Section 2. This
8 act shall take effect immediately.

9 ACTING PRESIDENT KUHL: Call the
10 roll.

11 (The Secretary called the roll.)

12 THE SECRETARY: Ayes 38.

13 ACTING PRESIDENT KUHL: The bill
14 is passed.

15 THE SECRETARY: Calendar Number
16 1264, by Senator Alesi, Senate Print 948-A, an
17 act to amend the Penal Law, in relation to
18 endangering the welfare of a child.

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

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

24 ACTING PRESIDENT KUHL: Call the
25 roll.

1 (The Secretary called the roll.)

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

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 1265, by Senator Kruger, Senate Print 1341, an
8 act to amend the Military Law, in relation to
9 authorizing the Governor.

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

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

14 ACTING PRESIDENT KUHL: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 41.

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1266, by Senator Velella, Senate Print 1616-A,
22 an act to amend the Insurance Law, in relation
23 to certain provider notice to insurance
24 companies.

25 ACTING PRESIDENT KUHL: The

1 Secretary will read the last section.

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

4 ACTING PRESIDENT KUHL: Call the
5 roll.

6 (The Secretary called the roll.)

7 THE SECRETARY: Ayes 43.

8 ACTING PRESIDENT KUHL: The bill
9 is passed.

10 THE SECRETARY: Calendar Number
11 1267, by Senator Onorato, Senate Print 1840, an
12 act to amend the Education Law, in relation to
13 limitations.

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

17 The Secretary will read the last
18 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 43.

25 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 1268, by Senator Maziarz, Senate Print 2783, an
4 act to reopen the special retirement plan
5 available to certain police officers.

6 ACTING PRESIDENT KUHL: There is
7 a home rule message at the desk. The 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 43.

15 ACTING PRESIDENT KUHL: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 1269, by Senator Trunzo, Senate Print 3276-A, an
19 act to amend the Public Officers Law, in
20 relation to activities by former state officers.

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

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

25 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 45.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 1270, by Senator Marchi, Senate Print 3579-A, an
8 act to amend the Not-for-Profit Corporation Law.

9 SENATOR BRUNO: Lay it aside for
10 the day.

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

13 THE SECRETARY: Calendar Number
14 1271, substituted earlier today by Member of the
15 Assembly Vitaliano, Assembly Print 5913, an act
16 to amend Chapter 695 of the Laws of 1994.

17 ACTING PRESIDENT KUHL: The
18 Secretary will read the 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 46.

25 ACTING PRESIDENT KUHL: The bill

1 is passed.

2 THE SECRETARY: Calendar Number
3 1272, by Senator Tully, Senate Print 3926, an
4 act to amend the General Municipal Law, in
5 relation to optional disability coverage.

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

9 THE SECRETARY: Section 5. 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 46.

15 ACTING PRESIDENT KUHL: The bill
16 is passed.

17 THE SECRETARY: Calendar Number
18 1273, by Senator Skelos, Senate Print 4118-A, an
19 act to amend the Civil Practice Law and Rules,
20 in relation to the scope of a review.

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

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

25 ACTING PRESIDENT KUHL: Call the

1 roll.

2 (The Secretary called the roll.)

3 THE SECRETARY: Ayes 46.

4 ACTING PRESIDENT KUHL: The bill
5 is passed.

6 THE SECRETARY: Calendar Number
7 1274, by Senator Tully, Senate Print 4503, an
8 act to amend the Family Court Act, in relation
9 to the provision of restitution.

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

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

14 ACTING PRESIDENT KUHL: Call the
15 roll.

16 (The Secretary called the roll.)

17 THE SECRETARY: Ayes 46.

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 1276, by Senator Volker, Senate Print 5218-A, an
22 act to amend the Penal Law.

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

25 THE SECRETARY: Calendar Number

1 1278, by Senator Volker, Senate Print 5299, an
2 act to commit the reopening of the optional
3 20-year retirement plan.

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

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

9 ACTING PRESIDENT KUHL: Call the
10 roll.

11 (The Secretary called the roll.)

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

14 ACTING PRESIDENT KUHL: The bill
15 is passed.

16 THE SECRETARY: Calendar Number
17 1279, by Senator Marcellino, Senate Print 5335,
18 an act to authorize the town of Oyster Bay,
19 Nassau County to deliver revenue anticipation
20 notes.

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

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

1 ACTING PRESIDENT KUHL: Call the
2 roll.

3 (The Secretary called the roll.)

4 THE SECRETARY: Ayes 47.

5 ACTING PRESIDENT KUHL: The bill
6 is passed.

7 THE SECRETARY: Calendar Number
8 1280, by Senator Velella, Senate Print 5421, an
9 act to amend the Criminal procedure law, in
10 relation to the commission of crimes against
11 children.

12 ACTING PRESIDENT KUHL: The
13 Secretary 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 47.

20 ACTING PRESIDENT KUHL: The bill
21 is passed.

22 THE SECRETARY: Calendar Number
23 1281, by Senator Libous, Senate Print 5425, an
24 act to amend the Tax Law, in relation to
25 extending the authorization of the county of

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

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

5 THE SECRETARY: Section 2. This
6 act shall take effect immediately.

7 ACTING PRESIDENT KUHL: Call the
8 roll.

9 (The Secretary called the roll.)

10 THE SECRETARY: Ayes 45, nays 2,
11 Senators Dollinger and Gentile recorded in the
12 negative.

13 ACTING PRESIDENT KUHL: The bill
14 is passed.

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

17 SENATOR SKELOS: Mr. President.

18 ACTING PRESIDENT KUHL: Senator
19 Skelos.

20 SENATOR SKELOS: Please take up
21 the controversial calendar.

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

1 THE SECRETARY: Calendar Number
2 102, by Senator Volker, Senate Print 808, an act
3 to amend the Criminal Procedure Law, in relation
4 to peace officers employed by Canisius College.

5 ACTING PRESIDENT KUHL: Senator
6 Leichter -- the Secretary will read the last
7 section.

8 THE SECRETARY: Section 2. This
9 act shall take effect immediately.

10 ACTING PRESIDENT KUHL: Call the
11 roll.

12 (The Secretary called the roll.)

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

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

18 ACTING PRESIDENT KUHL: The bill
19 is passed.

20 THE SECRETARY: Calendar Number
21 294, by Senator Meier, Senate Print 2149-A -

22 SENATOR SKELOS: Lay the bill
23 aside temporarily.

24 ACTING PRESIDENT KUHL: Lay the
25 bill aside temporarily.

1 THE SECRETARY: Calendar Number
2 630, by Senator LaValle, Senate Print 2657, an
3 act to amend the Public Health Law, in relation
4 to authorizing and directing the Commissioner of
5 Health.

6 SENATOR PATERSON: Explanation.

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

10 SENATOR LAVALLE: Thank you, Mr.
11 President.

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

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

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

6 ACTING PRESIDENT KUHL: Senator
7 Paterson.

8 SENATOR PATERSON: Thank you, Mr.
9 President.

10 If Senator LaValle will yield for
11 a question.

12 SENATOR LAVALLE: Yes.

13 ACTING PRESIDENT KUHL: Senator
14 LaValle yields.

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

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

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

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

13 ACTING PRESIDENT KUHL: Senator
14 Paterson.

15 SENATOR PATERSON: Thank you, Mr.
16 President.

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

1 Thank you.

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

4 THE SECRETARY: Section 2. This
5 act shall take effect on the 120th day.

6 ACTING PRESIDENT KUHL: Call the
7 roll.

8 (The Secretary called the roll.)

9 THE SECRETARY: Ayes 49.

10 ACTING PRESIDENT KUHL: The bill
11 is passed.

12 THE SECRETARY: Calendar Number
13 634, by Senator Hannon, Senate Print 4132, an
14 act to amend the Public Health Law and the
15 Education Law.

16 SENATOR PATERSON: Explanation.

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

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

1 expectation of compensation to be immune from
2 the medical malpractice.

3 SENATOR DOLLINGER: Mr.
4 President.

5 ACTING PRESIDENT KUHL: Senator
6 Paterson.

7 SENATOR PATERSON: Thank you, Mr.
8 President.

9 I will yield to Senator
10 Dollinger.

11 ACTING PRESIDENT KUHL: Senator
12 Dollinger.

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

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

25 SENATOR DOLLINGER: For the

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

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

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

12 SENATOR DOLLINGER: Thank you,
13 Mr. President.

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

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

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

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

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

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

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

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

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

9 ACTING PRESIDENT KUHL: Senator
10 Hannon, on the amendment.

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

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

25 Should we be adding on other

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

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

14 So the heart of the matter, I
15 think, comes down to what you talk about. You
16 would say that instead of the immunity, you
17 would rather have a liability for gross
18 negligence or willful misconduct and it would be
19 my contention that that would just put a harpoon
20 through the purpose of the bill and we might as
21 well not do it if that would be the case. And
22 why would that be? Because we're dealing here
23 with absolutely the retired physician. We're
24 even exempting them from about the approximate
25 \$600 a year in registration fees they would have

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

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

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

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

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

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

19 Senator Skelos.

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

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

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

3 Senator Dollinger, on the
4 amendment.

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

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

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

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

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

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

24 (There was no response.)

25 Hearing none, the question is on

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

3 (Response of "Aye".)

4 Opposed, nay.

5 (Response of "Nay".)

6 The amendment is defeated.

7 Is there any member wishing to
8 speak on the bill?

9 Senator Leichter.

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

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

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

1 considered.

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

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

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

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

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

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

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

1 the record that I differ.

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

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

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

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

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

10 ACTING PRESIDENT KUHL: Senator
11 Leichter, on the bill.

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

25 Yes, we want retired doctors to

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

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

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

21 SENATOR DOLLINGER: Mr.
22 President.

23 ACTING PRESIDENT KUHL: Senator
24 Dollinger.

25 SENATOR DOLLINGER: Would Senator

1 Leichter yield to a question?

2 SENATOR LEICHTER: Yes.

3 ACTING PRESIDENT KUHL: The
4 Senator yields.

5 SENATOR DOLLINGER: Senator
6 Leichter, you raised the prospect of the state
7 doing this. Is it possible that we could use
8 the MMIA, a source of funds which currently has
9 \$1 billion or more in it. It's now used for
10 excess coverage for our physicians that are in
11 practice. The state government has raided the
12 fund for hundreds of millions of dollars in the
13 last six years. There's plenty of cash in
14 there. We've got a system of handling claims
15 and adjudicating claims and defending claims on
16 behalf of physicians.

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

25 SENATOR LEICHTER: Well, that's

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

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

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

22 Thank you.

23 ACTING PRESIDENT KUHL: Senator
24 Paterson.

25 SENATOR PATERSON: Thank you, Mr.

1 President.

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

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

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

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

15 (There was no response.)

16 Hearing none, the Secretary will
17 read the last section.

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

20 ACTING PRESIDENT KUHL: Call the
21 roll.

22 (The Secretary called the roll.)

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

25 THE SECRETARY: Those recorded in

1 the negative on Calendar Number 634, Senators
2 Abate, Breslin, Connor, Dollinger, Gentile,
3 Leichter, Onorato, Paterson and Sampson. Ayes
4 42, nays 9.

5 ACTING PRESIDENT KUHL: The bill
6 is passed.

7 Senator Leichter, why do you
8 rise?

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

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

16 SENATOR MAZIARZ: Mr. President.

17 ACTING PRESIDENT KUHL: Senator
18 Maziarz.

19 SENATOR MAZIARZ: Mr. President,
20 in the rare times that I agree with Senator
21 Leichter, I also would ask unanimous consent to
22 be recorded in the negative on Calendar Number
23 827.

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

1 will be recorded in the negative on Calendar
2 Number 827.

3 Senator Maziarz.

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

6 ACTING PRESIDENT KUHL: The
7 Secretary will read the title to Calendar Number
8 294.

9 THE SECRETARY: Calendar Number
10 294, by Senator Meier, Senate Print 2149-A, an
11 act to amend the Criminal Procedure Law and the
12 Education Law.

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

15 THE SECRETARY: Section 3. 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 52.

21 ACTING PRESIDENT KUHL: The bill
22 is passed.

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

25 SENATOR MAZIARZ: Mr. President,

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

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

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

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

13 ACTING PRESIDENT KUHL: In its
14 entirety.

15 THE SECRETARY: By Senator
16 Connor, Legislative Resolution congratulating
17 Rebecca Sealton, 13, of Brooklyn Heights, New
18 York, upon her championship performance at the
19 70th Annual Scripps-Howard National Spelling Bee
20 held May 29th, 1997 in Washington, D.C.;

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

1 upon themselves, their families and their
2 community.

3 Attendant to such concern in full
4 accord with its long-standing traditions, it is
5 the sense of this legislative body to honor and
6 congratulate Rebecca Sealfon upon becoming the
7 1997 and the first New York City champion of the
8 70th Annual Scripps-Howard National Spelling Bee
9 held May 29th, 1997 at the Grand Hyatt Hotel in
10 Washington, D.C.

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

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

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

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

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

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

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

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

5 THE PRESIDENT: Senator Connor.

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

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

25 Thank you, Madam President.

1 THE PRESIDENT: Thank you,
2 Senator Connor.

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

5 (There was no response.)

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

9 SENATOR CONNOR: Madam President.

10 THE PRESIDENT: Senator.

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

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

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

20 (Response of "Aye".)

21 Opposed, nay.

22 (There was no response.)

23 The resolution is adopted.

24 (Applause)

25 SENATOR GOLD: Madam President.

1 THE PRESIDENT: Senator Gold.

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

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

12 Do I hear any objection?

13 SENATOR PRESENT: No objection.

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

16 Senator Johnson -- Senator
17 Present.

18 SENATOR PRESENT: Madam
19 President.

20 THE PRESIDENT: Yes, Senator.

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

23 THE PRESIDENT: The Senate will
24 stand at ease.

25 (Whereupon, the Senate stood at

1 ease.)

2 SENATOR PRESENT: Madam
3 President.

4 THE PRESIDENT: Senator Present.

5 SENATOR PRESENT: Would you
6 recognize Senator Smith.

7 THE PRESIDENT: Senator Smith.

8 SENATOR SMITH: Thank you, Madam
9 President.

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

12 THE PRESIDENT: Do I hear any
13 objection?

14 (There was no response.)

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

18 The Senate will stand at ease.

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

21 THE PRESIDENT: The Senate will
22 come to order.

23 Senator Skelos.

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

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

4 THE PRESIDENT: Yes. The
5 Secretary will read.

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

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

11 2152, by Senator Rath, an act to
12 amend the Criminal Procedure Law;

13 2516, by Senator Stavisky, an act
14 to amend the Tax Law;

15 2998, by Senator Larkin, an act
16 to amend the Criminal Procedure Law;

17 3011-A, by Senator Farley, an act
18 authorizing the trustees of the City University
19 of New York;

20 3226, by Senator LaValle, an act
21 to amend the Criminal Procedure Law;

22 3274, by Senator Trunzo, an act
23 to amend the Civil Service Law;

24 3851, by Senator Volker, an act
25 to amend the Retirement and Social Security Law;

1 3927, by Senator Tully, an act to
2 amend the Retirement and Social Security Law;
3 4116, by Senator Present, an act
4 to amend the Criminal Procedure Law;
5 4414, by Senator Velella, an act
6 in relation to designating;
7 4698, by Senator Tully, an act to
8 amend the Penal Law;
9 4727, by Senator Trunzo, an act
10 to amend Chapter 929 of the laws;
11 4907-A, by Senator Trunzo, an act
12 to authorize the Word of Jesus Outreach Center;
13 5053, by Senator Libous, an act
14 to repeal paragraph 3;
15 5104-A, by Senator Trunzo, an act
16 amend the Retirement and Social Security Law;
17 5126, by Senator Larkin, an act
18 to amend the Retirement and Social Security Law;
19 5256, by Senator Marchi, an act
20 to amend the Real Property Tax Law;
21 5265, by Senator Johnson, an act
22 to amend the Criminal Procedure Law;
23 5326, by Senator Volker, an act
24 to amend the Civil Practice Law and Rules;
25 5356, by Senator Saland, an act

1 to amend the Penal Law;
2 5385, by Senator Johnson, an act
3 to amend the Environmental Conservation Law;
4 5400, by Marcellino, an act to
5 amend the Public Service Law;
6 5438, by Senator Kuhl, an act to
7 amend the Criminal Procedure Law;
8 5447, by Senator Meier, an act to
9 amend the General Municipal Law;
10 5448, by Senator DeFrancisco, an
11 act to amend the Alcoholic Beverage Control Law;
12 5450, by Senator Holland, an act
13 to amend the Real Property Tax Law;
14 5459, by Senator Wright, an act
15 to amend Chapter 533 of the Laws of 1993;
16 5460, by Senator Maziarz, an act
17 to amend Chapter 906 of the Laws of 1984;
18 5463, by Senator Lachman, an act
19 to amend the Railroad Law;
20 5464, by Senator Rath, an act to
21 amend the Local Finance Law;
22 5472, by Senator Rath, an act to
23 amend Chapter 719 of the laws of 1980;
24 5482, by Senator Holland, an act
25 to amend the Highway Law.

1 All bills directly for third
2 reading.

3 SENATOR WALDON: Madam President.

4 THE PRESIDENT: Without
5 objection, all bills direct to third reading.
6 Senator Skelos.

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

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

15 Senator Waldon, excuse me.

16 SENATOR WALDON: Thank you very
17 much, Madam President.

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

23 THE PRESIDENT: Is there any
24 objection?

25 SENATOR SKELOS: There's no

1 objection.

2 THE PRESIDENT: Without

3 objection.

4 SENATOR WALDON: Thank you very
5 much, Madam President.

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

9 THE PRESIDENT: Senator Libous.

10 SENATOR LIBOUS: Thank you, Madam
11 President.

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

17 THE PRESIDENT: The amendments
18 are received.

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

24 THE PRESIDENT: The amendments
25 are received.

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

6 THE PRESIDENT: The amendments
7 are received.

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

14 THE PRESIDENT: The amendments
15 will be struck.

16 SENATOR LIBOUS: Thank you.

17 SENATOR SKELOS: Is there any
18 other housekeeping?

19 THE PRESIDENT: No.

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

23 THE PRESIDENT: Yes. Senator
24 Santiago.

25 SENATOR SANTIAGO: Madam

1 President, I would like to state for the record
2 that had I been in the chamber on Monday, June
3 2nd, I would have voted in the negative on
4 Calendars 557, 713, 933 and 964.

5 Thank you.

6 THE PRESIDENT: So recorded.

7 Senator Montgomery.

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

11 THE PRESIDENT: Do I hear any
12 objection?

13 SENATOR MONTGOMERY: Thank you.

14 THE PRESIDENT: Without
15 objection.

16 Senator Skelos.

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

20 THE PRESIDENT: The Senate will
21 stand at ease.

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

1 Conference Room open to Minority members in Room
2 315.

3 Thank you.

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

6 THE PRESIDENT: The Senate will
7 come to order.

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

11 THE PRESIDENT: Yes.

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

17 THE PRESIDENT: The amendments
18 are received.

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

25 THE PRESIDENT: The amendments

1 are received.

2 SENATOR KUHL: And, Madam
3 President, on behalf of Senator Leibell, on page
4 9, I offer the following amendments to Calendar
5 Number 258, Senate Print 2859, and ask that said
6 bill retain its place on the Third Reading
7 Calendar.

8 THE PRESIDENT: The amendments
9 are received.

10 SENATOR KUHL: Also, Madam
11 President, on behalf of Senator Skelos, on page
12 45, I offer the following amendments to Calendar
13 Number 223, Senate Print 476, and ask that said
14 bill retain its place on the Third Reading
15 Calendar.

16 THE PRESIDENT: The amendments
17 are received.

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

24 THE PRESIDENT: The amendments
25 are received.

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

7 THE PRESIDENT: The amendments
8 are received.

9 SENATOR KUHL: Also on behalf of
10 Senator Levy, on page 37, I offer the following
11 amendments to Calendar Number 1008, Senate Print
12 4710, and ask that said bill retain its place on
13 the Third Reading Calendar.

14 THE PRESIDENT: The amendments
15 are received.

16 SENATOR KUHL: Also, Madam
17 President, on behalf of Senator Levy, on page
18 22, I offer the following amendments to Calendar
19 Number 671, Senate Print 4114, and ask that said
20 bill retain its place on the Third Reading
21 Calendar.

22 THE PRESIDENT: The amendments
23 are received.

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

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

5 THE PRESIDENT: The amendments
6 are received.

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

13 THE PRESIDENT: The amendments
14 are received.

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

21 THE PRESIDENT: The amendments
22 are received.

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

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

4 THE PRESIDENT: The amendments
5 are received.

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

10 THE PRESIDENT: The Secretary
11 will read.

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

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

18 THE PRESIDENT: Call the roll on
19 reconsideration, please.

20 (The Secretary called the roll on
21 reconsideration.)

22 THE SECRETARY: Ayes 59.

23 SENATOR KUHL: I offer up the
24 following amendments.

25 THE PRESIDENT: The amendments

1 are received.

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

6 THE PRESIDENT: The Secretary
7 will read.

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

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

14 THE PRESIDENT: Call the roll on
15 reconsideration, please.

16 (The Secretary called the roll on
17 reconsideration.)

18 THE SECRETARY: Ayes 59.

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

21 THE PRESIDENT: The amendments
22 are received.

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

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

4 THE PRESIDENT: The bill will be
5 recommitted.

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

10 THE PRESIDENT: The Secretary
11 will read.

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

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

18 THE PRESIDENT: Call the roll on
19 reconsideration, please.

20 (The Secretary called the roll on
21 reconsideration.)

22 THE SECRETARY: Ayes 59.

23 THE PRESIDENT: The bill is
24 before the house.

25 SENATOR KUHL: Finally, Madam

1 President, on behalf of Senator Maziarz, on page
2 11, I offer the following amendments to Calendar
3 Number 320, Senate Print 507-A, and ask that
4 said bill retain its place on the Third Reading
5 Calendar.

6 THE PRESIDENT: The amendments
7 are received.

8 Senator Paterson.

9 SENATOR PATERSON: Thank you,
10 Madam President.

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

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

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

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

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

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

7 THE PRESIDENT: Thank you,
8 Senator Paterson.

9 Senator Bruno.

10 SENATOR BRUNO: Madam President
11 -- you're very welcome, Senator Paterson, and
12 in a response partially to the comments, let me
13 just do a quick update. We have been talking.
14 We have been negotiating. We have had counsels
15 meeting and we are anxious to get this issue to
16 prepare a bill resolved and voted on, and I'm
17 hopeful that -- and optimistic -- the counsels,
18 I believe are meeting right now -- that this
19 will happen some time between now and 10:00 or
20 11:00 tonight.

21 My schedule was that once they
22 have finalized agreement, it will take two or
23 three hours to print and refine. They still
24 haven't finalized agreement. That takes us to
25 8:00 or 9:00 o'clock at best and probably more

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

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

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

20 THE PRESIDENT: Senator Paterson.

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

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

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

5 Senator Bruno.

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

10 THE PRESIDENT: Upon motion, the
11 Senate stands adjourned until Thursday, June
12 19th, at 10:00 a.m.

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

15
16
17
18
19
20
21
22
23
24
25