ALBANY, NEW YORK

June 23, 1997

3:10 p.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their places, the staff to find their places. I'd ask everybody to rise and join with me in saying the Pledge of Allegiance to the Flag and please remain standing for the invocation.

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

We're very pleased to be joined by the Reverend Peter G. Young of the Blessed Sacrament Church of Bolton Landing for the invocation.

Father Young.

REVEREND PETER G. YOUNG: Thank you, Senator. Let us pray.

Dear God, as we gather in the Senate chamber on this first week of summer, we sometimes sniffle with the increase in pollen count but then smile as we see the beauty of Your multi-colored flowers.

Without Your spring rain and bountiful sunshine, we would have such a drab existence. The seeds that we have guaranteed

and germinated brighten our outlook on life.

May the bills that are presented today as bills blossom into the seeds of beneficial laws. They will enhance the quality of life for all New York State citizens.

May we remember today the prayers of support for the members of the families of the two teens that were just yesterday killed in the train wreck -- or in the train accident in Rochester. Now and forever. Amen.

ACTING PRESIDENT KUHL: Thank you, Father Young.

The reading of the Journal.

THE SECRETARY: In Senate, Sunday, June 22nd. The Senate met pursuant to adjournment. The Journal of Saturday, June 21st, was read and approved. On motion, the Senate adjourned.

ACTING PRESIDENT KUHL: Hearing no objection, the Journal stands approved as read.

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

The Chair recognizes Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Levy, would you please remove the sponsor's stars from Calendar Number 993 and 1018.

ACTING PRESIDENT KUHL: The stars on Calendar Number 993 and 1018 are removed at the request of the sponsor.

Senator Farley.

SENATOR FARLEY: On behalf of Senator Johnson, Mr. President, I move to recommit Legislative Resolution 1636 to the Committee on Finance.

ACTING PRESIDENT KUHL: The resolution is recommitted.

SENATOR FARLEY: On behalf of Senator Hannon, Mr. President, on page 27, I offer the following amendments to Calendar Number 781, Senate Print 5038, and I ask that

that bill retain its place on the Third Reading Calendar.

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

Senator Farley.

SENATOR FARLEY: On behalf of Senator LaValle, on page 38, I offer the following amendments to Calendar 1054, Senate Print 4389, and I ask that that bill retain its place.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 1054 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Farley.

SENATOR FARLEY: On behalf of Senator Holland, Mr. President, on page 12, I offer the following amendments to Calendar 339, Senate Print Number 453-B, and I ask that that bill retain its place.

ACTING PRESIDENT KUHL: The amendments to Calendar Number 339 are received and adopted and the bill will retain its place

on the Third Reading Calendar.

Senator Farley.

SENATOR FARLEY: Mr. President, on behalf of Senator Marchi, I move to amend Senate Bill Number 2877-C, by striking out the amendments made on June 20th and restoring it to its previous print which was 2877-B.

ACTING PRESIDENT KUHL: The amendments are stricken and the bill is restored.

Senator Wright, did you have a motion?

SENATOR WRIGHT: Thank you, Mr. President.

I wish to call up my bill, Print Number 731, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: The Secretary will read.

THE SECRETARY: By Senator Wright, Senate Print 731, an act to legalize, ratify and confirm.

ACTING PRESIDENT KUHL: Senator Wright.

SENATOR WRIGHT: Mr. President, I

now move to reconsider the vote by which this bill was passed.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT KUHL: Senator Wright.

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

ACTING PRESIDENT KUHL: The amendments are received and adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's privileged Resolution 1879 at the desk sponsored by Senator Velella. May we please have the title read and I move for its immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read the title to privileged Resolution Number 1879 by Senator Velella.

THE SECRETARY: By Senator Velella, Legislative Resolution honoring Audrey Hoffman Bills upon the occasion of her

retirement after 38 years of state service.

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is unanimously adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there's privileged Resolution 1878 at the desk by Senator Lachman. May we please have the title read and I move for its immediate adoption.

ACTING PRESIDENT KUHL: The Secretary will read the title to privileged Resolution 1878 by Senator Lachman.

THE SECRETARY: By Senator Lachman, Legislative Resolution commemorating the 70th Anniversary of the Coney Island Cyclone Roller Coaster.

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room and if we could take up the non-controversial calendar at this time.

ACTING PRESIDENT KUHL: There will be an immediate meeting of the Rules Committee, an immediate meeting of the Rules Committee in the Majority Conference Room, Room 332.

The Secretary will read the non-controversial calendar.

THE SECRETARY: Calendar Number 137, by Senator Spano, Senate Print 689-A, an act to amend the General Business Law and the Executive Law, in relation to the licensing of armored car carriers.

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

THE SECRETARY: Section 6. This

act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 267, by Senator Cook, Senate Print 2647-A, an act to amend the General City Law, the Town Law and others, in relation to the adoption of certain local laws.

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

THE SECRETARY: Section 40. This act shall take effect on the same date as a chapter of the Laws of 1997.

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 356, by Senator Cook, Senate Print 2649-A, an

act to amend the General Municipal Law, in relation to the intergovernmental coordination of certain municipal zoning and planning actions.

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

THE SECRETARY: Section 4. This act shall take effect on the same date as a chapter of the Laws of 1997.

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 426, by Senator Levy, Senate Print 3553-A, an act to amend the Vehicle and Traffic Law, in relation to pedestrians right of way and crosswalks.

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 48, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 473, by Senator Volker, Senate Print 1587-A, an act to amend the Executive Law, in relation to the written statement of the crime victim.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 491, by Senator DeFrancisco, Senate Print 479-B, an act to amend the Public Health Law, in relation to the establishment or incorporation

of hospitals.

SENATOR PATERSON: Lay that aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside at the request of the Acting Minority Leader.

THE SECRETARY: Calendar Number 595, by Senator Maziarz, Senate Print 4049, an act to amend the Real Property Tax Law, in relation to partial payments of taxes.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 604, by Senator Meier, Senate Print 3937-A, an act to authorize the town of Paris to convey certain parklands.

SENATOR MEIER: Lay it aside for

the day.

ACTING PRESIDENT KUHL: Lay the bill aside for the day at the request of the Acting Majority Leader.

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 the secondary wage earners exemption.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 718, by Senator Maltese, Senate Print 4880, an act to amend the Real Property Tax Law, in relation to tax credits for security improvements.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 737, by Senator Wright, Senate Print 4779-A, an act to amend the Vehicle and Traffic Law, in relation to the definition of drug.

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

THE SECRETARY: Section 2. This act shall take effect in 30 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

The motion is to withdraw the -

reconsider the vote by which the bill passed the house.

The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 740, by Senator Lack, Senate Print 588-B, an act to amend the Real Property Actions and Proceeding Law.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 767, by Senator Lack, Senate Print 3480, an act

to amend the Public Health Law, in relation to immunity from liability.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 772, by the Assembly Committee on Rules, Assembly Print 7557, an act to amend the Public Health Law, in relation to verbal permission to remove a body.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 866, by Senator Cook, Senate Print 4644-A, an act to amend the Criminal Procedure Law, in relation to pleas for certain offenses.

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 48, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 867, by member of the Assembly Sweeney, Assembly Print 1074-C, an act to amend the Penal Law, in relation to possession and sale of fireworks.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 881, by member of the Assembly Faso, Assembly Print 5682, an act to amend the Tax Law, in relation to extending the expiration of provisions.

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

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 963, by Senator Levy, Senate Print 608-A, an act to amend the Vehicle and Traffic Law, in relation to instruction for school bus drivers.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 983, by Senator Kuhl, Senate Print 3214-A, an act to amend the Highway Law, in relation to designating a portion of State Route 17.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1025, by Senator Kuhl, Senate Print 4184, an act to amend the Agriculture and Markets Law, in relation to the assessment of penalties.

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

THE SECRETARY: Section 3. This act shall take effect in 90 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1045, by Senator Marchi, Senate Print 3649-B, an act to amend the Limited Liability Company Law, the Partnership Law, the Business Corporation

Law.

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

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1062, by Senator Farley, Senate Print 4732, an act to amend the Banking Law and the General Obligations Law, in relation to penalties for mortgage prepayments.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1082, by Senator Marchi, Senate Print 4767-A, an act to amend the Business Corporation Law, in relation to the organization.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1152, by Senator LaValle, Senate Print 5139-B, an act to amend the Public Officers Law, in

relation to clinical practice.

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 49.

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.

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 1193, by Senator Velella, Senate Print 1972-A, an act to amend the New York City Civil Court Act and the Civil Practice Law and Rules.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

For the benefit of the members who are in the chamber, we'll now go to the supplemental active list, beginning with Calendar Number 195. You should have that active supplemental list at your desk.

I'll ask the Secretary to continue to call the non-controversial calendar on the supplemental active list.

THE SECRETARY: Calendar Number 195, by Senator Spano, Senate Print 2486, an act to amend the Labor Law and the Workers' Compensation Law, in relation to the definition of employment.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 199, by Senator Larkin, Senate Print 1724-B, an

act to amend the County Law, in relation to authorizing county sewer districts in the county of Orange.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 258, by Senator Leibell, Senate Print 2859-A, an act to amend the Real Property Law, in relation to certain mortgages.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 259, by Senator Lack, Senate Print 2918-B, an act to amend the Family Court Act, in relation to appeals of cases.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 265, by Senator Alesi, Senate Print 2872-B, an act to amend the General Business Law, the Civil Practice Law and others, in relation to investment fraud.

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

THE SECRETARY: Section 4. This act shall take effect in 120 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 284, by Senator Volker, Senate Print 365-C, an act to amend Penal Law, in relation to possession of one gram.

SENATOR ONORATO: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 439, by Senator Skelos, Senate Print 589-B, an act to amend Penal Law and the Criminal Procedure Law, in relation to providing for life imprisonment.

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

THE SECRETARY: Section 12. 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 454, by Senator Marchi, Senate Print 2921-B, an

act to amend Chapter 395 of the Laws of 1978.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 522, by member of the Assembly Eve, Assembly Print 4848, an act to amend the Local Finance Law, in relation to the sale of municipal obligations.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 734, by Senator Wright, Senate Print 4224-A, an act to amend the Vehicle and Traffic Law, in relation to the suspension of registrations.

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

THE SECRETARY: Section 4. 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 48, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 811, by Senator Alesi, Senate Print 4609, an act to amend the General Business Law, in relation to the enforcement of arbitration awards.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 869, by Senator Tully, Senate Print 5141-A, an act to amend the Penal Law, in relation to increasing the criminal penalties for sexual performances by a child.

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

THE SECRETARY: Section 12. 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 986, by Senator Maziarz, Senate Print 3844, an

act to amend the Vehicle and Traffic Law, in relation to the offense of operation while license or privilege is suspended.

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

THE SECRETARY: Section 4. 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1008, by Senator Levy, Senate Print 4710-A, an act to amend the Vehicle and Traffic Law, in relation to failure to obey a police officer's signal to stop.

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

THE SECRETARY: Section 3. 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1100, by Senator Tully, Senate Print 5005-B, an act to amend the Nassau County Civil Divisions Act.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1216, by Senator Rath, Senate Print 4851-A, an act in relation to creating the local flexibility incentive pilot program.

ACTING PRESIDENT KUHL: 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 49.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1270, by Senator Marchi, Senate Print 3579, an act to repeal Paragraph (f) of Section 404 of the Not-for-Profit Corporation Law.

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

THE SECRETARY: Section 3. This act shall take effect in 30 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR HOLLAND: Would you wait

one second, Mr. President.

Okay. Can we just go to the controversial calendar, Mr. President.

ACTING PRESIDENT KUHL: Senator Holland, excuse me. Can we get a little order in the house, please. We've got some business to do.

SENATOR HOLLAND: Just go to the controversial calendar, please, Mr. President, the controversial.

ACTING PRESIDENT KUHL: The Secretary will read the controversial calendar, beginning with Calendar Number 195.

THE SECRETARY: Calendar Number 195, by Senator Spano, Senate Print 2486, an act to amend the Labor Law and the Workers' Compensation Law, in relation to the definition of employment.

SENATOR HOLLAND: Mr. President, that's the wrong one. That's the supplemental. Let's go to the original list, please.

ACTING PRESIDENT KUHL: You're entitled to change your mind, Senator Holland. So we'll lay that bill aside.

SENATOR HOLLAND: 491, please.

ACTING PRESIDENT KUHL: Are you sure that's the one you want to take up now?

SENATOR HOLLAND: Almost positive.

ACTING PRESIDENT KUHL: All right. The Secretary will call the controversial calendar, beginning with Calendar Number 491.

THE SECRETARY: Calendar Number 491, by Senator DeFrancisco, Senate Print 479-B, an act to amend the Public Health Law, in relation to the establishment or incorporation of hospitals.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT KUHL: Senator DeFrancisco, an explanation has been requested of Calendar Number 491.

SENATOR DeFRANCISCO: A few years back we passed a Limited Liability Law that would allow for certain corporations, certain companies and professionals to incorporate under this statute since every other state had it and there's advantageous tax and other benefits for limited liability organizations.

This bill had been read not to

include hospitals and this bill, all it does is merely include hospitals in the limited liability, that they be eligible to become limited liability companies.

SENATOR STACHOWSKI: Mr. President, if the sponsor would yield.

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STACHOWSKI: The only concern we seem to have here is could this bill, this limited liability inclusion of hospitals, be used as a way for for-profit hospitals to get their foothold in New York State?

SENATOR DeFRANCISCO: Absolutely not. There was extended discussion in the Health Committee on this very issue. This does not allow for that type of situation at all. There would need to be separate legislation.

SENATOR STACHOWSKI: The only other point that I would like to make and maybe if the Senator would yield to one other question -

ACTING PRESIDENT KUHL: Senator DeFrancisco, do you yield to one other question?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR STACHOWSKI: Senator, we have three memos in opposition, one from DC 37, one from AFSCME and one from CSEA on the "A" print. Did you address their opposition?

SENATOR DeFRANCISCO: I don't know if I addressed their opposition, but if it's based on the fact that for-profit organizations could come in and national organizations under this bill, that opposition is incorrect.

SENATOR STACHOWSKI: Thank you.

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 2. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 491 -- those recorded in the negative on Calendar Number 491, Senators Abate, Connor, Gentile, Gonzalez, Lachman, Leichter, Mendez, Nanula, Onorato, Paterson, Rosado. Ayes 38, nays 11.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 737, by Senator Wright, Senate Print 4779-A, an act to amend the Vehicle and Traffic Law, in relation to the definition of drug.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Wright, an explanation has been requested on Calendar Number 737.

SENATOR WRIGHT: Thank you, Mr. President.

The bill amends the Vehicle and Traffic Law to expand the definition of drugs. Currently that definition is defined by reference to a section of the Public Health Law which describes prescribed medications as well

as illicit drugs.

This definition will expand the definition to include any substance or combination of substances other than alcohol that may impair driving. That could include inhalants, glue and other substances which are commonly abused, as well as certain prescription and over-the-counter products that taken alone or in combination could cause drowsiness and have the potential to affect an individual's performance and driving skills, thereby impairing their operation of a motor vehicle.

This language is comparable and consistent with statutes that have now been reflected in 32 different states as well as the District of Columbia.

ACTING PRESIDENT KUHL: Senator Paterson, did you hear that explanation?

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT KUHL: I'm glad you did.

SENATOR PATERSON: Most of it.

ACTING PRESIDENT KUHL: I couldn't hear it because there are at least 14

conversations going on in this chamber, some by members, some by staff. If you have to have a conversation that's not related to business, please take it out of the chamber. We have a lot of business to do and we can't do it if we can't hear.

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. Thank you very much.

I actually could have heard it a lot clearer had your admonition been heeded, Mr. President, and, therefore, I wouldn't have to ask this question.

The situation regarding substances where perhaps they are prescription drugs and there are specific written indications as to what they can cause would certainly include them under the definition from my point of view. However -- if Senator Wright would yield for a question.

SENATOR WRIGHT: I will, Mr. President.

SENATOR PATERSON: However, Mr. President, I find the language in the legislation, while it tries to accomplish a good

purpose, overly broad and perhaps creating a circumstance in which a number of individuals could be victimized by the appearance that they willfully violated the law when perhaps they did not.

Let me give an example. Cough medicine, an allergy fighter or some kind of substance -- I won't name the over-the-counter titles but really that treat flu symptoms and headaches and that sort of thing, if a person became drowsy after the fact, it might not be necessarily clear that that caused it, nor is it really known that it actually did but if a police officer said, "Have you taken anything" and somebody says, "I took an analgesic" or "I took a Contac" or something like that", under this legislation, I could make a good case as a prosecutor for how this individual has broken the law.

Now, certainly anyone who knowingly puts themselves at this risk and then is affected in such a way that it could cause harm to other vehicle operators is certainly culpable under the statute, but I would wish that Senator Wright would explain to us, what

would be the need for such a broad interpretation whose net could catch a lot of people who just happen to perhaps be guilty of poor driving and not of having violated what the spirit of the law indicates?

SENATOR WRIGHT: Thank you, Mr. President.

The issue is to remove the individual from the highway when they're driving in an impaired state and merely the taking of any of those substances, prescribed or non-prescribed, does not adversely affect one's driving ability. It's the issue of impaired driving that has been observed by the officer that in turn would lead to the arrest. Ultimately the issue you're concerned with would be dealt with by experts and expert testimony and it would be dealt with in a case by trial.

Our intent is to clearly remove the individual who has either abused the non-prescription medication, taken it in conditions that are contrary to what the recommendations are for that particular medication, have taken them in combination with other non-prescription drugs that result in a

circumstance, in effect, that impairs their driving and driving ability as observed by that officer.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President and thank Senator Wright for his explanation.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson on the bill.

SENATOR PATERSON: I'm convinced by Senator Wright's explanation his intent is certainly understood and what he's trying to accomplish is laudable and something that's long overdue. However, I don't know how a police officer can make the judgment based on the types of medications or the types of substances that we are talking about, that they impair or diminish the capacity of an individual to such an extent that they now become culpable under the statute. We're not just removing people from the road. We're subjecting people to some very serious allegations and some very strong penalties over something that it would take

expert witnesses to figure out and yet the split-second decision is actually made by the police officer. I don't know, if I were a police officer, if I would want to try to take on that burden and I don't know as a legislator that I can vote for a piece of legislation that is so broad in its interpretation that it could take a number of people -- and I'm not talking about people who regularly put themselves at risk or people who drive while intoxicated or use substances that are illegal or even people who use prescription medication that they no makes them drowsy and go right out on the road and use it and it's very clear from the package what the ramifications are. We're talking about individuals who may be reacting for a number of reasons and not necessarily those caused by any substance that adulterates their state of mind.

We are merely talking about a situation where we've legislated on this issue but now we're basically going over the line. We're actually putting people at risk every time they put their automobile on because, should they perhaps fall asleep or drive erratically or be in an accident, it could have been caused

just by the fact that the person was not -- was driving at a time they should not have been, which is poor judgment. It might make them guilty of some other offenses but to add this, which is something that is a judgment that can't be made on a moment's notice, I think doesn't accomplish totally what the bill sets out to do. I think it goes too far and diminishes the case where we really need to tighten up the enforcement of those who drive while under the influence of substances.

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 2. This act shall take effect in 30 days.

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 737, Senator

Connor, Paterson and Waldon. Ayes 49, nays 3.

ACTING PRESIDENT KUHL: The bill is passed.

SENATOR LEICHTER: Mr. President.

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

SENATOR LEICHTER: I was recorded in the negative on Calendar Number 491. With unanimous consent, could you see that my vote is recorded in the affirmative on that bill, please.

ACTING PRESIDENT KUHL: I would be happy to. Without objection and hearing no objection, Senator Leichter will be recorded in the affirmative on Calendar Number 491.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 767, by Senator Lack, Senate Print 3480, an act to amend the Public Health Law, in relation to immunity from liability.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Lack, an explanation of Calendar Number 767 has been requested by the Acting Minority Leader,

Senator Paterson.

SENATOR LACK: Thank you, Mr. President.

This bill was introduced at the request of a group of volunteers in Suffolk County who donate without compensation an extraordinary amount of their time for not-for-profit organizations who care for home bound individuals. They receive no compensation but both they and the organizations are liable in case there are any mistakes, although they're just volunteers and there are many groups all over this state and, indeed, thousands of such organizations which try to provide as much volunteer work as they possibly can and this bill would simply remove them from liability unless there was gross negligence.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

This is similar to a piece of legislation that we debated last week and our position remains that when you compare the value of what is happening to the volunteer as opposed

to what is happening to the patient, we feel that the Legislature should favor the value of the patient who by coming into a facility has different options and basically different remedies based on whom is treating the -- the patient. The fact is that the standard of care and the standard of recovery should be the same.

Now, what we perhaps might be able to do, as we suggested last week, is legislate or find the resources -- since there aren't really that many volunteers -- and their service is greatly appreciated and in no way should they be encumbered by the performance of their service. Perhaps from some of the many funds that we have around the state that we never quite figured out what to do with the resources, I would suggest that those be apt donations to the insurance that would cover for the volunteers but to allow for this recovery at the expense of the patient, in our opinion, would not accomplish the goal of keeping a unified standard health care system and the exact remedies for all who are -- come under the care of a clinic or any other not-for-profit

facility.

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

Senator Leichter.

SENATOR LEICHTER: Would Senator Lack yield.

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

SENATOR LACK: Surely.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR LEICHTER: Senator Lack, do we have any experience or studies or assessment which show that there's been a large number of lawsuits against voluntary home care givers? What is really the need of this bill, I guess is what I'm really asking you.

SENATOR LACK: Let me read you a letter, if I can, Senator Leichter, from Dorot. It's a Jewish organization on West 85th Street. You might have heard about it.

SENATOR LEICHTER: My district.

SENATOR LACK: Yes, I know. Allow me to read the letter because it, Mr.

President, answers not only your question but goes to what Senator Paterson was saying about there aren't that many volunteers out there.

"Dear Senator Lack: I'm writing on behalf of Dorot and its thousands of volunteers in support of this piece of legislation you have introduced in the New York State Senate. Dorot is a not-for-profit social service agency dedicated to meeting the needs of a homebound and homeless agent. Dorot's small staff, in this one agency alone, 4,000 adult volunteers and 3,500 young volunteers age 5 to 21 serve 10,000 elders and their care givers each year", on the west side of Manhattan in your district and Senator Paterson's district, "providing them with companionship and physical and emotional sustenance. Dorot's innovative programs would serve as an international model, alleviate the isolation and depression", et cetera, et cetera.

"There's not been one single incident in which an elder has been injured during a visit by a volunteer. Nevertheless, we have to pay for liability insurance which places too onerous a financial burden on small,

not-for-profit volunteer organizations and well meaning individuals whose only desire is to help others."

This, Senator Leichter, is repeated in all 61 Senate districts throughout the state. The request for me specifically came from organizations in Suffolk County which, like Dorot in the middle of Manhattan, have thousands of volunteers of all ages who are trying to provide some services to supplement governmental services to people who are homebound.

It isn't so much, Senator Leichter, the number of lawsuits. It is, unfortunately, what society requires the cost of maintaining the insurance against the possibility of a number of lawsuits that has resulted in this request for this legislation. These are, as they are in your district, all well meaning people -- well, in your district alone, we're talking 7,000 volunteers in this one small agency. So we're literally talking about tens and tens of thousands of people in this state who are volunteering their time and their services and if you read the bill, this is for without compensation just to go and try to

help people who could be in need.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: On the bill. I guess Senator Lack proves the old adage, cross-examination, you should never ask a question unless you know the answer, but I'm glad I asked it and I didn't -- I wasn't put up for asking that question by Senator Lack. It so happens Dorot is not only in my district but I have been actively engaged in helping it because it's a wonderful organization and reflecting on what Senator Lack said and that the issue is not necessarily that there have been a lot of lawsuits but that it's -- irrespective of whether there are lawsuits or not, these organizations have to pay liability insurance. I think he makes an excellent point.

I also want to make a distinction between the bill we had last -- Senator Hannon's bill last week and this bill. This bill dealt with licensed professionals who were providing services in community hospitals and clinics, and so on, I think a matter where it's much easier

to set up a state program at very low cost to provide coverage and, therefore, provide an incentive for people who volunteer their services. Here we're not talking about licensed professionals and, in fact, Senator Lack's bill specifically states that nothing in this subdivision shall be deemed or construed to relieve a licensed physician, dentist, nurse, physical assistant, et cetera. Here they're really talking about volunteers. What Dorot does, for instance, it's really an intergenerational program where young people, many of them attend Columbia, Barnard, and so on, volunteer their time to deliver food packages to the homebound elderly. There's programs like this throughout the state. So we're talking about volunteers not licensed professionals. I'm convinced, Senator Lack.

Thank you.

ACTING PRESIDENT KUHL: Senator Lachman.

SENATOR LACHMAN: On the bill.

This is an example when a debate in this chamber can change a vote. I was going into this chamber to vote no. I've heard the

discussion and I just read the letter that Senator Lack had.

Dorot is one of the unsung heroes in the nation. Has received many awards in its voluntary capacity and after reading the letter and hearing the debate, I will vote in the affirmative on this measure.

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 2. 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 Paterson, why do you rise?

SENATOR PATERSON: Mr. President, just to explain my vote. I'm actually -

ACTING PRESIDENT KUHL: Senator

Paterson, to explain his vote.

SENATOR PATERSON: -- I'm persuaded by Senator Leichter's conversation with Senator Lack. I must have been thinking back to last week. I thought I saw in the bill here that it pertained to health care professionals, dentists and otherwise. I'll check that out but in the interim, I'm willing to vote for the legislation because at no point in my discussion did I suggest that volunteers should be penalized or be liable in this particular way.

Like Senator Leichter, Project Dorot is now in his district, was once in mine, was founded by 12 students who were Jewish who attended Columbia University the same time I did and they do bring in a tremendous number of volunteers to work in this area.

I didn't realize that the type of care that the volunteers were giving would come under this kind of scrutiny.

So my vote is in favor, Mr. President.

ACTING PRESIDENT KUHL: Senator Paterson will be recorded in the affirmative.

The bill is passed.

THE SECRETARY: Calendar Number 867, by member of the Assembly Sweeney, Assembly Print 1074-C, an act to amend the Penal Law, in relation to possession and sale of fireworks.

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 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 963, by Senator Levy, Senate Print 608-A, an act to amend the Vehicle and Traffic Law, in relation to instruction for school bus drivers.

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

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT KUHL: Yes, Senator Paterson.

SENATOR PATERSON: On this bill, we don't have any problem with the bill but the Civil Service Employees Association raised a concern that we certainly share, which is that the members not have to pay for their own training. No one's objecting to the training and I don't know that I would object to the bill even if they did, but certainly where the care of children is at stake, we would not want for the members to actually have to forego this out-of-pocket cost when the value of safety is such that we wouldn't want financing to get in the way of the best drivers to be shepherding our children back and forth to school.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Lachman, why do you

rise?

SENATOR LACHMAN: Mr. President, I rise because I would like to change my vote on Calendar Number 491 based on the premise that the Health Department will supervise the establishment of the corporation of hospitals by limited liability companies.

I would like to vote from the negative to the affirmative based upon that.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Lachman will be recorded in the affirmative on Calendar Number 491.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 1045, by Senator Marchi, Senate Print 3649-B, an act to amend the Limited Liability Company Law, the Partnership Law, the Business Corporation Law.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Lay the bill aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1062, by Senator Farley, Senate Print 4732, an act to amend the Banking Law and the General Obligations Law, in relation to penalties for mortgage prepayments.

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 52.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1082, by Senator Marchi, Senate Print 4767-A, an act to amend the Business Corporation Law, in relation to the organization of professional service corporations.

ACTING PRESIDENT KUHL: The

Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1193, by Senator Velella, Senate Print 1972-A, an act to amend the New York City Civil Court Act and the Civil Practice Law and Rules, in relation to authorizing New York City marshals to exercise the same functions.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar Number 1193 has been requested by Senator Paterson.

SENATOR VELELLA: Yes, Senator. This bill would allow New York City marshals, of which there are, I believe 50, to enforce judgments for both the Family and the Supreme Court in any county within the city of New York. It would strictly apply to the city of New York.

We had this bill. We've passed it once or twice before. There was some question as to whether or not this had some

problems with DC 37. Those have been resolved. I believe there are still some technical questions. However, we've resolved it to the point where this is compliant with their union contract.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: If Senator Velella would yield to a quick question.

ACTING PRESIDENT KUHL: Do you yield, Senator Velella?

SENATOR VELELLA: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator Velella, the issue of the disparity in the percentage that would be refunded after the collection of the judgment by the marshal vis-a-vis what the sheriff was refunding -- I think the sheriff was a point and a half higher at 5 percent as opposed to 3.5 percent -- that's all worked out?

SENATOR VELELLA: I've heard no problem about that at all and the marshals, as you know, work as a private entity and maintain

their own expenses. I don't believe that's been an issue at all. I've never had it raised to me in discussing this bill.

SENATOR PATERSON: And, therefore, the union opposition on the original bill, therefore, that's all been -

SENATOR VELELLA: Well, I'm not going to mislead you, Senator. They're not jumping up and down and cheering for this bill but there have been provisions put into this bill that will make them whole in the sense that the provisions of no layoffs and no diminution in the amount of work available to the union members is encompassed in this and runs beyond the union contract by this bill.

SENATOR PATERSON: Okay. But - that's fair enough. Thanks very much, Senator.

SENATOR VELELLA: You're welcome.

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 51, nays 1, Senator Kuhl recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

ACTING PRESIDENT KUHL: Senator Saland, Senator Leibell, you're voting no on the last bill or are you checking in?

SENATOR SALAND: Mr. President, I can't hear you.

ACTING PRESIDENT KUHL: Would you ask the Sarge to shut the door, please.

Senator Saland, were you indicating you would like to vote no on the last bill that was read -

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: - Calendar Number 1193, Senator Velella's bill?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT KUHL: Senator Leibell, you're asking also?

SENATOR LEIBELL: Certainly, Mr. President.

ACTING PRESIDENT KUHL: Senator

Santiago, you wish to be in the negative on the last bill also?

(Senator Santiago nods head.)

ACTING PRESIDENT KUHL: Without objection and I hear no objection, all three Senators will be recorded in the negative on Calendar Number 1193. That bill was passed.

The Secretary will continue to call the controversial calendar now moving on to the supplemental active list, beginning with Calendar Number 195, by Senator Spano.

SENATOR DOLLINGER: Mr. President.

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

SENATOR DOLLINGER: Mr. President, I apologize. We just took a vote on Calendar Number 1193. I would ask to be recorded in the negative as well.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Dollinger will be recorded in the negative on Calendar Number 1193.

Senator Lachman.

SENATOR LACHMAN: 1193.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Lachman will be recorded in the negative on Calendar Number 1193.

The Secretary will read Calendar Number 195.

THE SECRETARY: Calendar Number 195, by Senator Spano, Senate Print 2486, an act to amend the Labor Law and the Workers' Compensation Law, in relation to the definition of employment.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Spano, an explanation of Calendar Number 195 has been requested by Senator Paterson.

SENATOR SPANO: Mr. President, this bill provides that professional models who -- would be deemed independent contractors for unemployment and for Workers' Compensation if they meet certain criteria that we've set forth in the proposed statute.

If we go back to 1992, Chapter 668 of the Laws of 1992, it was enacted in an effort just to clarify who would be an independent contractor in terms of professional

models.

Prior to that, there was no clear definition in the law and Chapter 668 was enacted to put UI and Workers' Compensation coverage in statute. What happened was some confusion that was -- that resulted where we were defining employment with specific references that left some models out of the loop.

What -- this bill would implement specific criteria which a professional model must meet to determine they're an independent contractor.

ACTING PRESIDENT KUHL: Senator Paterson, do you wish to speak more on the bill, ask further questions?

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

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

SENATOR PATERSON: Senator, is there a reason why we're only providing this protection to models as opposed to various other groups that are in the same sort of -

beauticians or other independent contractors that are in this similar circumstance?

SENATOR SPANO: Yes. There is a reason for that, Senator. While we don't pretend that we're handling all the problems of independent contractors with the passage of this, but when we did pass Chapter 668 of the Laws of '92, it did put in place a mechanism with respect to models specifically and this legislation will put -- implement some specific criteria to deal with problems that have resulted as a result of that -- of the law that we passed in 1992.

There are other pieces of legislation that we have and that the Labor Committee had been looking into dealing with independent contractors but this is not a subject for today and also, Senator, we did have -- it was last year, we had conducted a series of hearings across the state where we did hear from a number of models that overwhelmingly supported the passage of this legislation.

SENATOR PATERSON: Thank you very much, Senator Spano.

Mr. President, on the bill.

ACTING PRESIDENT KUHL: Senator Paterson, on the bill.

SENATOR PATERSON: Mr. President, not all of the individuals who are working are as glorified and as high profiled as some of the more famous and celebrated models that we're aware of in society and because of the inconsistency of the work that they are able to find, it becomes very difficult for them not being represented by unions to actually compete in the actual market and so, therefore, to remove them from -- or have them seen as independent contractors and not eligible for some of the benefits that Workers' Compensation and unemployment are providing; therefore, the AFL-CIO and many others are quite concerned about this and in spite of Senator Spano's efforts through the hearing that he did hold to alleviate that concern, there's still the feeling that the worker whose work comes inconsistently is placed in a situation where the barriers are increased probably through - without the protections that would be afforded to just the regular employee.

ACTING PRESIDENT KUHL: Senator

Stachowski.

SENATOR STACHOWSKI: Mr. President, it's not often I get up and disagree with an AFL-CIO memo, much less disagree with my wonderful colleague, David Paterson, but on this particular bill, I'm agreeing with Senator Spano.

Having gone through a situation years ago in Buffalo where one of the larger modeling agencies in a small market like Buffalo was almost put out of business by an audit and subsequent attempt to collect money for owed unemployment coverages and it -- and they had gone to court and they won all the way through the court system and won in the Supreme Court here in New York, showing that these models were independent agents, that they were not always handled by this particular agency when they got work, that the reason for this bill and the reason even the models backed this bill is because, in most cases, these models are represented by different people according to different jobs, so that somebody else would call them if they need their particular type for a certain job.

So the fact is that I think Senator Spano's bill goes a long way to addressing this particular problem, more in the smaller agencies than the larger ones. This would be a major problem if they were suddenly audited by the Labor Department and told they owe large sums of money because they didn't cover unemployment insurance for models that were just -- that they assigned to certain jobs that weren't full-time employees.

So that this is a legitimate concern of not only the models but also the agencies. I think that this bill is necessary and will go a long way to alleviate that pressure and that pressure still exists because that same agency that won all the way through to the Supreme Court was notified earlier this year that they were going to have another audit of the same nature and then all of a sudden they didn't, but they were under that scare for about a month that they were going to have to go through the same thing that they had gone through and had led them to go to that court decision years ago.

So I would recommend the people

support Senator Spano's bill and, by the way, there is one union modeling agency that we know of and they would not be ill-affected by this particular bill.

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 7. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Abate, why do you rise?

SENATOR ABATE: Yes. I'd ask for unanimous consent to be recorded in the negative on Calendar Number 767 and 1193.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Abate will be recorded in the negative on Calendar Number 767 and 1193.

The Secretary will continue -

ACTING PRESIDENT KUHL: Senator Kruger.

SENATOR KRUGER: It seems to be fashionable. 1193, I would ask unanimous consent to be recorded in the negative.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Kruger will be recorded in the negative on Calendar Number 1193.

Senator Montgomery.

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

I would like unanimous consent to be recorded in the negative on Calendars 491 and 1082.

ACTING PRESIDENT KUHL: Without objection.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT KUHL: Hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 491 and 1082.

The Secretary will continue to read the controversial calendar.

THE SECRETARY: Calendar Number 199, by Senator Larkin, Senate Print 1724-B, an act to amend the County Law, in relation to authorizing county sewers in the county of Orange.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Did I hear a request for an explanation?

Senator Larkin, an explanation has been asked for by Senator Paterson, I believe.

SENATOR LARKIN: Yes, Mr. President. This bill would allow Orange County to enter into an agreement with private organizations in relationship to the operation and maintenance of a county sewer district.

The county legislature has passed a resolution, has held a public hearing. It's similar to legislation extended to Suffolk County in 1980 and the sewer district itself has reached its capacity.

With regard to the funding of the facility, federal legislation enacted by President Bush and continued on by President Clinton on the forgiveness of the debt of this

would be the same as any other facility privatized nationwide. Two organizations -- two communities that have engaged in this, Wilmington, Delaware and Franklin, Ohio, say that their projection is very successful.

Last year there was some question concerning the employees. The CSEA had written a new memo dated the 3rd of March but it's not consistent with the bill's "B" print and the matter concerning employees has currently addressed it in the bill itself.

ACTING PRESIDENT KUHL: Senator Paterson.

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

ACTING PRESIDENT KUHL: Senator, do you yield?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Thank you, Senator.

You were talking about the March 3rd memo issued by the Civil Service Employees

Association and obviously it raised a concern about public jobs and, you know, then you went on to say you didn't think it would really harm the employment and I just didn't understand how that would not, but if you might explain it, perhaps we can all get a better understanding of it.

SENATOR LARKIN: Senator Paterson, I would like to direct your attention to page 2 of the "B" version, line 45 through line 56, and it's very, very clear. This language was entered into with labor's participation and the same bill is being introduced in the Assembly by Mr. Gunther and it says in plain language if an employee, after this agreement takes place, in essence, he'll be offered a job with the private entrepreneur. If he decides he doesn't want to take that job, the county will move him within the county so that he will have his rights, benefits and protections. None of them will. In Orange County, this facility has 12 employees.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President,

in spite of the participation that Senator Larkin and others who are supporting the legislation afforded the labor community, they did not participate to a point where I get the impression there was full satisfaction. What the Senator did was to be quite open and to elicit and hear every point of view.

However, the concern for workers in this type of a situation -- there are many types of privatization that actually can be somewhat effective and, in fact, there have been times when actually the public agency has been able to win bids against the private -- the private company, such as a famous situation in 1988 involving the sewage removal in Phoenix, Arizona, where the privatization factor actually stimulated the effort that the public agency was involved in and it was actually the workers designing new routes and demonstrating ways that service could be implemented in a more effective way that could help them to win, but in the present case, not finding enough to actually sustain a belief that there is a valid claim to have in Orange County this system become private -- and I don't want to speak that much about an

area that I am not nearly as familiar as is Senator Larkin -- the fact remains that in the general issue, there's a feeling even in the labor community in that area that jobs will be -- will be lost in the process.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 284, by Senator Volker, Senate Print 365-C, an act to amend the Penal Law, in relation to possession of one gram or more.

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

THE SECRETARY: Section 8. This act shall take effect on the first day of November.

ACTING PRESIDENT KUHL: Senator

Leichter, why do you rise?

SENATOR LEICHTER: Just to find out what calendar number we're on.

ACTING PRESIDENT KUHL: Calendar Number 284, Senator Leichter.

SENATOR LEICHTER: 384?

ACTING PRESIDENT KUHL: It's on our regular calendar, Calendar Number 284. It's on the supplemental active list. It's a bill that Senator Volker sponsors. Did you wish to debate the bill, Senator Leichter?

(There was no response.)

The Secretary will read the last section.

THE SECRETARY: Section 8. 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 55.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. 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 at this time.

ACTING PRESIDENT KUHL: We'll return to the order of reports of standing committees.

The Secretary will read the report of the Rules Committee.

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

Senate Print 478, by Senator DeFrancisco, an act to amend the Real Property Tax Law;

1902, by Senator Maltese, an act to amend the Real Property Tax Law, in relation to permitting;

2057, by Senator Kuhl, an act to amend the Environmental Conservation Law;

2522-A, by Senator Johnson, an act to amend the Penal Law;

4240-A, by Senator Seward, an act to amend the General Municipal Law;

4786-A, by Senator Lack, an act

to amend the Environmental Conservation Law;

4900, by Senator Trunzo, an act to amend the Civil Service Law;

5225, by Senator Tully, an act to amend the Executive Law;

5373, by Senator Velella, an act to amend the Administrative Code of the city of New York;

5429, by Senator Marcellino, an act to amend the Public Authorities Law; and

5499, by Senator Holland, an act to amend the Agriculture and Markets Law.

All bills directly for third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Mr. President, move to accept the report of the Rules Committee.

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The Rules report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, the bills are being distributed at this time. The calendar is also in the process of being distributed. I'd ask that the members and those wishing to debate the bills please be in chamber as we go through the Rules reports and supplemental reports and there will be at least one other meeting of the Rules Committee this afternoon.

So once the calendar is distributed, we will take up Calendar Number 1319, and again, I ask that the members please be in the chamber.

SENATOR PATERSON: Mr. President.

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

SENATOR PATERSON: With unanimous consent, I would like to be recorded in the negative on Calendar Number 767 after having reread the legislation introduced by Senator Lack.

ACTING PRESIDENT KUHL: Without

objection, hearing no objection, Senator Paterson will be recorded in the negative on Calendar Number 767.

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

SENATOR SEABROOK: Mr. President, with unanimous consent, I would like to be recorded in the negative on bill 737 and bill 491 and also 767.

ACTING PRESIDENT KUHL: Is that it?

SENATOR SEABROOK: And 1193.

ACTING PRESIDENT KUHL: Is that it?

SENATOR SEABROOK: That's it.

ACTING PRESIDENT KUHL: Okay. Without objection, hearing no objection, Senator Seabrook will be recorded in the negative on Calendars Number 491, 737, 767 and 1193.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Senate Supplemental Calendar Number 57-A, starting with Calendar Number 1319, non-controversial.

ACTING PRESIDENT KUHL: The

Secretary will read.

THE SECRETARY: Calendar Number 1319, Senator DeFrancisco moves to discharge from the Committee on Rules Assembly Print 3201 and substitute it for the identical Senate Third Reading 1319.

ACTING PRESIDENT KUHL: The substitution is ordered.

The Secretary will read the title.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Let's put the bill before the house first.

THE SECRETARY: Calendar Number 1319, by member of the Assembly Abbate, Assembly Print 3201, an act to amend the Real Property Tax Law.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1320, Senator Maltese moves to discharge from the Committee on Rules Assembly Print 969 and substitute it for the identical Senate bill Third Reading 1320.

ACTING PRESIDENT KUHL: The

substitution is ordered. The Secretary will read the title.

THE SECRETARY: Calendar Number 1320, by member of the Assembly Schimminger, Assembly Print 969, an act to amend the Real Property Tax Law.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1321, by Senator Kuhl, Senate Print 2057, an act to amend the Environmental Conservation Law, in relation to permitting the discharge of a firearm.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1322, by Senator Johnson, Senate Print 2522-A, an act to amend the Penal Law, in relation to including sale of controlled substances.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1045, by Senator -- Calendar Number 1323, by Senator Seward, Senate Print 4240A, an act to amend the General Municipal Law, in relation to the calculation of net proceeds.

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.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1324, by Senator Lack, Senate Print 4786-A, an act to amend the Environmental Conservation Law,

in relation to prohibiting fishing with a trawl in Smithtown Bay.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1325, by Senator Trunzo, Senate Print 4900, an act to amend the Civil Service Law, in relation to including both the sheriff and the county in those counties.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1326, by Senator Tully, Senate Print 5225, an act to amend the Executive Law, the Criminal Procedure Law and the Public Health Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1327, by Senator Velella, Senate Print 5373, an act to amend the Administrative Code of the city of New York.

ACTING PRESIDENT KUHL: There is

a home rule message at the desk. The Secretary will read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1328, by Senator Marcellino, Senate Print 5429, an act to amend the Public Authorities Law, in relation to water pollution control revolving fund program.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1329, by Senator Holland, Senate Print 5499, an act to amend the Agriculture and Markets Law, in relation to posting security for an animal which has been seized.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

Senator Skelos, that completes the non-controversial reading of Supplemental Calendar Number 57-A.

SENATOR SKELOS: Mr. President,

once again, I'd urge the members to please come in the chamber so that we can continue with the supplemental calendar, controversial, and if we could start at this time.

Senator Dollinger, did you wish to be recognized?

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: With the consent of the Deputy Majority Leader, Mr. President, could I have unanimous consent to be recorded in the negative on Calendar Number 767.

SENATOR SKELOS: No objection.

SENATOR DOLLINGER: Thank you.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Dollinger will be recorded in the negative on Calendar Number 767.

The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 1319, by member of the Assembly Abbate, Assembly Print 3201, an act to amend the Real Property Tax Law, in relation to exempting.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator DeFrancisco, an explanation of Calendar Number 1319 has been requested by Senator Paterson.

SENATOR DeFRANCISCO: If I may have a moment, please.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: While all the members are assembling and appearing, is there any housekeeping at the desk that we could do at this time? No. Gee, we're so efficient.

SENATOR DeFRANCISCO: Mr. President.

ACTING PRESIDENT KUHL: Senator DeFrancisco.

SENATOR DeFRANCISCO: I believe an explanation was asked for.

ACTING PRESIDENT KUHL: That's correct, by Senator Paterson.

SENATOR DeFRANCISCO: This is a bill that would provide a local option for exemptions for certain improvements to historic property.

ACTING PRESIDENT KUHL: Senator

Paterson.

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

ACTING PRESIDENT KUHL: Senator, do you yield?

SENATOR DeFRANCISCO: Yes, I would.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator DeFrancisco, there have been a number of times where there is a structural situation, for instance, perhaps it's an arena and they want to expand it and, therefore, some of the -- some of the historic preservation is changed by the attempt to expand it, but there's a point at which the preservation or the landmark that's put on the property has almost no use if the developer or whoever is interested in changing the property undercuts the spirit of the law. Just about how far is this legislation going? In other words, what are the parameters by which somebody can make adjustments to the property without violating the local ordinance?

SENATOR DeFRANCISCO: Well, first it would have -- the property would have to fit in the definition of historic property as is defined in the statute and secondly it's a local option and the assessor also has to pass judgment on the issue and that's provided for in the bill that the assessor has got to be satisfied that they're entitled to that exemption.

So I would assume that based on assessors normally wanting to make certain that they can collect as much money as possible, there's two built-in protections against that.

Number one is that -

ACTING PRESIDENT KUHL: Senator DeFrancisco, excuse me just a minute. We have a lot of noise in the chamber.

SENATOR DeFRANCISCO: Number one is that it's a local option. Number two, the assessor has to pass upon it to -- and, number three, it has to be a historic property.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

I think Senator DeFrancisco has satisfied my concern. The problem often emanates from the fact that the use of the property is -- may be changed by the local government but the issue is that sometimes the pressure on the local government to subscribe to the point of view of someone who wants to make the change is such that you can't really get anybody to stand up for the artistic and cultural value of property and it's taken a very long time to bring that kind of scrutiny to a number of areas, but within the limited use that Senator DeFrancisco very aptly explained, I think that it's certainly fair to do it in this particular case.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1320, by member of the Assembly Schimminger, Assembly Print 969, an act to amend the Real Property Tax Law, in relation to permitting revised veterans' exemption.

SENATOR PATERSON: Explanation.

SENATOR MAZIARZ: Can we lay the bill aside temporarily, please.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1322, by Senator Johnson, Senate Print 2522-A, an act to amend the Penal Law, in relation to including sale of controlled substances.

ACTING PRESIDENT KUHL: Senator Johnson -- excuse me. Senator Paterson.

SENATOR PATERSON: Mr. President, I'm sorry. What calendar number are we on?

ACTING PRESIDENT KUHL: We're on Calendar Number 1322, Senator Johnson's bill. It's 2522-A.

SENATOR PATERSON: Thank you, Mr. President.

One second. May I have an explanation on that bill.

ACTING PRESIDENT KUHL: Senator Johnson.

SENATOR JOHNSON: Mr. President, this bill would add to the list of underlying offenses for which you can be charged if a subsequent murder occurs, murder in the second degree and this would add to the present list, which is robbery, burglary, kidnapping, rape, et cetera, et cetera, the criminal sale of a controlled substance from fifth degree down to first degree and even sale of a controlled substance in or near school grounds. If a murder occurs as a result of that act, you could be charged with second degree murder. It's supported by of the Law Enforcement Council - New York State Law Enforcement Council and others.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Johnson would yield to a question.

ACTING PRESIDENT KUHL: Senator Johnson, do you yield to a question from Senator Paterson?

SENATOR JOHNSON: Yes, Mr.

President.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR PATERSON: Senator, you're saying that if the fifth degree of the sale of substance abuses were to occur on a school property, for instance, and that in the midst of the commission of this crime that a death occurs, that at that point that the perpetrator could be charged with second degree murder?

SENATOR JOHNSON: That's correct.

SENATOR PATERSON: Therefore, Senator Johnson, as that is the highest degree of the charge that someone could be convicted in this state, this would be -- basically assimilate to the definition of a felony murder statute?

SENATOR JOHNSON: Senator, I'm not sure if I heard your question clearly. Could you re-address it to me.

SENATOR PATERSON: I'm saying that this being the highest charge for which an individual can be tried -- I guess it's intent and reckless indifference for life -- that under

the felony murder statute, the fact that a death occurs during the time of the actual crime, the individual charged with the offense might not have been the person that physically caused the death but because they have raised the specter of the entire situation to -- by the fact that they were participating in this type of crime which, in this case, is the sale and the place where the sale occurs, then even though they might not have been the individual who physically pulled the trigger or stabbed someone with a knife, we as a society have determined that they can be charged as if they intentionally went to this area to cause the death of the victim.

SENATOR JOHNSON: Senator, the answer is yes and it's no different than all the other acts which I read previously. You could be in a bungled robbery and you might not have done the robbery but you can still be charged with -- you may have not done the murder during that robbery, maybe some of your companions did it, the burglary or whatever, but you could still be charged with that murder, yes.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: Thank you, Mr. President.

On the bill. The -- the fiction that is created -- and when I use the word "fiction", I don't mean to in any way diminish the seriousness of it, but what happens is that the type of crime that is committed in some cases is such that we as a society have determined that if you go into a bank per se, and you go in with a gun and perhaps the bank guard, in shooting at you, shoots one of the other -- one of the patrons of the bank, we'll charge you with murder and the reason is because once you went into the bank with a gun, anything could happen and it's really your fault and if a death occurs, we think that it's necessary in that case to charge a person with second degree murder.

Now, what's happening is that we are expanding the definition of another crime under Senator Johnson's bill to include this, and what I kind of object to is we're getting down to almost -- and I don't want to use the word "petty", but what I'm just trying to say is

to some lesser types of criminal activity for which a variety of reasons could arise that someone loses their life.

Now, we already have in the statute the ability to charge people with second degree murder for the crime itself, if the person is there at the time, but this legal fiction that we create with the stretch, such as I described in the scenario of the bank, is one that we've got to be a little, I think more disciplined in terms of the selectivity of its enforcement and in this particular piece of legislation, I just don't think that these types of situations, which quite often are -- involve younger people and also a lot of violence that may take place as a result of younger people being in this kind of an environment -- I don't know that I want to, in a sense, cause someone to be -- enable someone to receive the death penalty or a life sentence for a situation such as this in spite of the fact that a life is lost.

There are some pretty strict elements that describe what the second degree murder statute is about as opposed to first and

second degree manslaughter or criminally negligent homicide and I'm just suggesting that perhaps we overextended the value of the interpretation of the law in this particular case.

I will be voting no, Mr. President.

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 3. This act shall take effect on the first day of November.

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 1322, Senators Leichter, Montgomery, Paterson and Smith. Ayes 52, nays 4.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1323, by Senator Seward, Senate Print 4240-A, an act to amend the General Municipal Law, in relation to the calculation of net proceeds.

SENATOR PATERSON: Explanation.

SENATOR SKELOS: Lay it aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1324, by Senator Lack, Senate Print 4786-A, an act to amend the Environmental Conservation Law, in relation to prohibiting fishing.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Lack, an explanation of the bill has been requested.

SENATOR LACK: Thank you, Mr. President.

This bill would amend current law to include the only part of Long Island Sound not currently covered in restricting trawl fishing within a half mile of the shore.

ACTING PRESIDENT KUHL: Senator

Paterson.

SENATOR PATERSON: That's fine. Thank you very much for the explanation, Mr. President.

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

THE SECRETARY: Section 2. This act shall take effect in 30 days.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1325, by Senator Trunzo, Senate Print 4900, an act to amend the Civil Service Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Trunzo, an explanation has been requested of Calendar Number 1325.

SENATOR TRUNZO: Mr. President, this bill amends the Civil Service Law to specify and designate the sheriff and his elected sheriffs and the county in any county

where a sheriff is in an elected position as a joint public employer for the purpose of collective bargaining.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I just want to be sure, if Senator Trunzo would yield for a question.

ACTING PRESIDENT KUHL: Senator Trunzo, do you yield?

SENATOR TRUNZO: Yes.

SENATOR PATERSON: Senator, does this give the sheriffs in this particular case the opportunity to engage in collective bargaining with the local counties?

SENATOR TRUNZO: I didn't quite hear your question, Senator.

SENATOR PATERSON: I'm sorry. Mr. President, to Senator Trunzo. I was wondering if this -- the passage of this legislation would empower the sheriffs to engage in collective bargaining with the local counties.

SENATOR TRUNZO: It's been done for the past 20 years. The sheriffs and the

counties have been jointly -- you know, considered joint public employees. We're only talking about the elected sheriffs, not the appointed sheriffs. There's a difference between the two and in counties such as Westchester, New York City and Nassau County where the sheriffs are appointed, the county then really does the negotiation and the collective bargaining.

SENATOR PATERSON: I just need a clarification, if Senator Trunzo would yield for a question.

Senator Trunzo, would you distinguish between the elected and appointed sheriffs for purposes of collective bargaining under the law right now.

SENATOR TRUNZO: Right now, it used to be part of a constitutional amendment. It was part of the Constitution where they were joint public employers and, as I said, for the past 20 years, that practice has been going on for the elected sheriffs and the counties -- or the county executives in the various counties and what has been happening is one negotiation is a fiscal part of it. The sheriff can

negotiate for the employees the bargaining position of the entire -- of the contracts that are going on.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

On the bill. The Association of Counties basically oppose this legislation because of the collective bargaining option that they feel would be afforded to sheriffs under the legislation.

I will, however, since we've really just seen the bill here on the floor, be willing to go back and check on that and if what Senator Trunzo is saying is right, I'll certainly amend my statement, but as it stands now, we don't think this would be a particularly good move for workers in this extent because of what it will now do in competitive bargaining vis-a-vis the discretion of local counties.

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

(There was no response.)

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 55, nays 1, Senator Paterson recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1326, by Senator Tully, Senate Print 5225, an act to amend the Executive Law.

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

THE SECRETARY: Calendar Number 1327, by Senator Velella, Senate Print 5373, an act to amend the Administrative Code of the city of New York.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT KUHL: Senator Velella, an explanation of Calendar Number 1327

has been requested by Senator Paterson.

SENATOR VELELLA: Yes, Senator. This bill is at the request of the city of New York and supported by the PBA.

What it does is make an actuarial assumption change in the interest that will be earned by the pension system. It ups it by one quarter of one percent and the monies that will be saved by that actuarial assumption will be saved by the city of New York and I believe are being used to help defray some of the additional costs and police powers that the City is incurring in the next year, but the money saved will go to the city of New York. The union is on board with this and the administration and council are on board with this.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: Yes. Would Senator Velella yield?

SENATOR VELELLA: Yes.

SENATOR LEICHTER: Senator, how does that actuarial expectation compare to the actu...

SENATOR VELELLA: Brings it into

conformity with -

SENATOR LEICHTER: Let me finish my question. How does that compare to the actuarial expectation or anticipation on other pension funds of the city of New York?

SENATOR VELELLA: It brings it into conformity with the same numbers that are being used by other pension funds. This brings it to the same number.

SENATOR LEICHTER: Would you continue to yield, Senator?

SENATOR VELELLA: Yes.

SENATOR LEICHTER: Could you tell me why -

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR LEICHTER: -- has there been a difference in the assumption for the police -- is this police and firemen or just police?

SENATOR VELELLA: I believe it's only police.

SENATOR LEICHTER: Why has there been a difference between the police and the other pension funds, teachers, and so on?

SENATOR VELELLA: I can only speculate. If you want my speculation, I can give it to you. The absolute answer, no, I cannot give you the absolute. There were some problems, as you are aware in negotiating the police package for reimbursement and in terms of their salary increases. There's been a lot of problems in negotiating with them between the City and the union and it's my belief that during that negotiating process, other people moved forward, made these adjustments and because there was still an unresolved negotiated settlement being worked on, this does not -- did not keep pace with the others who had already resolved their labor issues. Again, that's the only reason that I can think of that's been told to me, but I don't have an official reason as to why this did not keep pace with the other unions.

SENATOR LEICHTER: Mr. President, one final question.

So as far as you know, there's nothing that relates to the investments of these pension funds or their management that in any respect requires a different assumption for this

particular pension from the police than for the other funds which, as you say, have presently a higher assumption.

SENATOR VELELLA: No, Senator. As a matter of fact, I have been informed by both the City and the union the exact opposite, that this is in conformity.

SENATOR LEICHTER: This will equalize.

SENATOR VELELLA: This will equalize.

SENATOR LEICHTER: Thank you.

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

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1328, by Senator Marcellino, Senate Print 5429, an act to amend the Public Authorities Law, in

relation to the Water Pollution Control Revolving Fund Program.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1329, by Senator Holland, Senate Print5499, an act to amend the Agriculture and Markets Law, in relation to posting security for an animal which has been seized.

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR HOLLAND: Yes, sir. I didn't hear it; I'm sorry.

This bill is to amend a bill we previous passed -- previously passed this year, and the bill we previously passed said that if animals were mistreated, a number of animals

were mistreated and had to be picked up by the Humane Society or the ASPCA, the person who was accused of mistreating the animals would be charged a security deposit so that the Humane Society or the ASPCA would be able to pay for the upkeep of the animals.

This bill does a couple of - four changes in the bill. It says it would eliminate seeing eye dogs or personal pets such as a dog or cat that -- bird, et cetera. It would notify anybody else who has an interest in the animal that is being taken over by the ASPCA such as a bank in the case of farm animals and would apply for refunds if the individual was found not guilty by the courts and also would allow the sale of the animals failing everything else.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

I was just wanting to make sure that this involved cases of actual abuse and mistreatment as opposed to the, what appeared to be stray dogs that would be picked up and then

there would be a dispute as to whether the dogs really were in violation or whether there was really a purpose to pick them up. As long as there's a case in which there is some documentation of mistreatment to the animal, this is quite appropriate and so I would withdraw my objection which would be more like barking at the moon.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe Senator Maltese is on his way over to take up Calendar Number 1320. Any housekeeping at the desk?

ACTING PRESIDENT KUHL: Nothing at the desk at the moment.

Senator Gentile.

SENATOR GENTILE: Mr. President, I request unanimous consent to be recorded in the negative on Calendars Number 767 and 1193.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Gentile will be recorded in the negative on Calendar Number 767 and Calendar Number 1193.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on 767.

ACTING PRESIDENT KUHL: Without objection.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT KUHL: Hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 767.

Senator Stavisky.

SENATOR STAVISKY: Mr. President, I'd like to be recorded in the negative on 767 and 1193.

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

Stavisky will be recorded in the negative on Calendar 767 and Calendar 1193.

Senator Smith, why do you rise?

SENATOR SMITH: Mr. President, I also ask unanimous consent to be recorded in the negative on Calendar Numbeer 1193.

ACTING PRESIDENT: Without objection, hearing no objection, Senator Smith will be recorded in the negative on Calendar Number 1193.

Senator Montgomery.

SENATOR MONTGOMERY: I would like to be recorded in the negative on 1193 also, Mr. President. I'd like unanimous consent, please. Pretty please. Sir.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 1193.

Senator Holland.

SENATOR HOLLAND: Call up Calendar Number 1320, please.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1320.

THE SECRETARY: Calendar Number

1320, by member of the Assembly Schimminger, Assembly Print 969, an act to amend the Real Property Tax Law, in relation to permitting revised veterans' exemptions.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Maltese, an explanation has been requested.

SENATOR MALTESE: Yes, Mr. President.

The purpose of this legislation is to guarantee that veterans seeking to contribute additional eligible funds to their eligible funds as defined by statute, property tax exemption after re-evaluation would receive a pro rata exemption as opposed to a dollar for dollar exemption to those extra funds.

This legislation amends the Real Property Tax Law by adding two new paragraphs and adding definitions to each subdivision to explain a recompute exemption. The second paragraph would specify how such exemption would be computed. This would allow for a municipality to adopt a local law to adopt this method of recomputing the exemption. Although existing law allows municipalities under re-evaluation to

continue the pro rata value of veterans eligible funds for property tax exemptions, a loophole in the law prevents veterans from getting the full benefit of additional eligible funds they seek to apply to their exemption after re-evaluation. Instead of giving a veteran the pro rata tax benefit of additional eligible funds, the present law is simply giving veterans a dollar for dollar increase in their exemption for these extra funds.

This legislation would cure this inequity and guarantee veterans the full pro rata benefits of additions to their eligible funds. Under this proposal, when a veteran receives additional eligible funds under this section, then the exemption would be recomputed to take into account the additional funds. A veteran should not be penalized simply because the additional funds were applied after re-evaluation. As veterans serve their country and risk their lives, it would be unfair to deny them the full benefit of their eligible funds.

Mr. President, this is an area that has aroused a great deal of confusion and uncertainty and over the years they have sought

to correct inequities involving these exemptions and this is the latest attempt to resolve any inequities and give all veterans an equal shot.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Explanation satisfactory.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos, that completes the controversial reading of the supplemental calendar.

Senator Farley, why do you rise?

SENATOR FARLEY: Yes, Mr. President, I would ask that you as the presiding officer take this opportunity before we close to wish my seatmate and the guy who was just

talking to you, Michael Tully, Senator Michael Tully, a happy birthday Today is his birthday.

ACTING PRESIDENT KUHL: Would you like to lead the chorus, Senator Farley?

SENATOR FARLEY: No, I'll let you to do that.

ACTING PRESIDENT KUHL: Senator Tully, we wish you all the best on your birthday, of course, on behalf of all your colleagues here, Senator Bruno, Senator Connor, Senator Paterson, Senator Skelos, myself and everybody, happy birthday. Happy 39th.

Senator Skelos.

SENATOR SKELOS: Mr. President, there is going to be a Rules Committee meeting shortly and then we will take up one -- as of right now, one bill. So we have to just stand at ease at this time. Rules staff is getting the bills together.

ACTING PRESIDENT KUHL: Senate will stand at ease.

(The Senate stood at ease from 5:02 p.m., until 5:12 p.m.)

ACTING PRESIDENT KUHL: Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room and the Senate will continue to stand at ease.

ACTING PRESIDENT KUHL: Immediate meeting of the Rules Committee, immediate meeting of the Rules Committee in the Majority Conference Room, Room 332. All the members please go to the Rules Committee.

(The Senate stood at ease from 5:13 p.m., until 5:35 p.m.)

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. If we could have it read at this time.

ACTING PRESIDENT KUHL: Have a little order in the house. We have some business to conclude yet this evening. Members will take their seats, staff take their seats.

Return to the order of reports of standing committees. Ask the Secretary to read

the report of the Rules Committee which is at the desk.

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

5594, by Senator Velella, an act to amend the Insurance Law;

401-B, by Senator Maziarz, an act to amend the Insurance Law;

1617, by Senator Velella, an act to amend the Insurance Law;

1704, by Senator Maltese, an act in relation to allowing certain Correction members;

1914-A, by Senator Libous, an act to amend the Penal Law;

2430, by Senator DeFrancisco, concurrent resolution of the Senate and Assembly;

2491, by Senator Waldon, an act to amend the Public Authorities Law;

2667, by Senator LaValle, an act authorizing the town of East Hampton;

3190, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

3268, by Senator Skelos, an act to amend the Retirement and Social Security Law;

3620, by Senator Libous, an act to authorize the city of Binghamton;

4342, by Senator Saland, an act to amend Chapter 524 of the Laws of 1987;

4583-A, by Senator Meier, an act to amend the Penal Law;

4624, by Senator Farley, an act to enable the county of Schenectady;

4808-A, by Senator Tully, an act to authorize Stuart L. Ain to apply;

4846-A, by Senator Meier, an act to amend the Social Services Law;

4893, by Senator Saland, an act to authorize the city school district;

5107, by Senator Velella, an act to amend the Public Authorities Law;

5159-A, by Senator Trunzo, an act to amend the Public Authorities Law;

5320-C, by Senator Tully, an act to amend the Public Health Law;

5458-A, by Senator LaValle, an act to amend the Mental Hygiene Law;

5461, by Senator Spano, an act to

amend the Vehicle and Traffic Law;

5479, by Senator Dollinger, an act to amend the Vehicle and Traffic Law;

5531, by the Committee on Rules, an act to amend Section 564;

5534, by Senator Marcellino, an act authorizing the assessor of the county of Nassau;

5537, by Senator Goodman, an act to amend the Alcoholic Beverage Control Law;

5563, by Senator Saland, an act to authorize the Commissioner of General Services;

5581, by Senator Farley, an act to amend the Vehicle and Traffic Law; and

5602, by Senator DeFrancisco, an act authorizing and directing.

All bills direct to third reading.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT KUHL: Motion is to accept the report of the Rules Committee. All

in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The Rules report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if we could take up Calendar Number 1330, Senate Print 5594, by Senator Velella.

ACTING PRESIDENT KUHL: Secretary will read the title to Calendar Number 1330.

THE SECRETARY: Calendar Number 1330, by Senator Velella Senate Print 5594, an act to amend the Insurance Law, in relation to chiropractic care.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT KUHL: Senator Velella, an explanation has been requested by Senator Paterson.

SENATOR VELELLA: This bill will give chiropractors parity with other health care professionals with regard to health care insur ance. It basically divides health care insur ance which will now be covered by chiropractors into two different groups: Those that are

covered by managed care products that imposes the same co-payment, co-insurance benefits or reasonable utilization review that is imposed on other HMOs, participators or suppliers, and in the case of indemnity policies, it restricts the visits to 15 visits under an indemnity policy and the carrier may impose utilization review requirements after those 15 visits. That provision is sunsetted in December -- on December 31st of 1999, and the Superintendent of Insurance will conduct a study on the utilization review trends, cost impacts of including chiropractic in indemnity policies, but at that point in time that report will be given to the Legislature and they will decide whether or not to continue chiropractic services in an indemnity plan or whether or not to adopt a different type of philosophy in approaching them as to whether or not they're cost effective.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Mr. President, I'm very satisfied with that explanation and would like to support the bill but since you're

here, Senator Velella, your time shouldn't go to waste.

Will you yield for a quick question?

SENATOR VELELLA: Sure, if you will take a quick answer.

SENATOR PATERSON: Do you think this will impose a mandate on insurance to provide coverage that it otherwise would not? It doesn't change our view of the bill. I just wondered from your knowledge.

SENATOR VELELLA: I guess you can call it whatever you want. You can look at it and say, is the glass half full, is the glass half empty? Is it a mandate? Is some of this covered now? Yes. Some policies allow it, some don't. It gives parity to the chiropractors, treats them as the professionals, licensed professionals they are, allows them to be reimbursed only for that which is defined in the scope of practice under the Health Law, that for which they are licensed, no more, no less, and gives them equality. Rather than a mandate, I would look at it as a parity or an equality bill.

SENATOR PATERSON: That makes it even easier to vote for it then than last year because it kind of creates a kind of limitation there.

Well, thank you very much, Senator Velella.

Mr. President, why don't we just do the last section, pass the bill and get out of here.

ACTING PRESIDENT KUHL: Secretary will read the last section.

THE SECRETARY: Section 7. This act shall take effect January 1st, 1998.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll. )

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, any housekeeping at the desk?

ACTING PRESIDENT KUHL: Yes, we do have some.

We'll return to motions and

resolutions. Chair recognizes Senator Tully.

SENATOR TULLY: Thank you, Mr. President.

I wish to call up my bill, Print Number 4111, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: By Senator Tully, Senate Print 4111, an act to amend Chapter 521 of the Laws of 1994.

ACTING PRESIDENT KUHL: Senator Tully.

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

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT KUHL: Senator Tully.

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

ACTING PRESIDENT KUHL:

Amendments received and adopted.

Senator Tully.

SENATOR TULLY: Mr. President, on page 43, I offer the following amendments to Calendar Number 495, on behalf of Senator Hannon, Senate Print 3000-B, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

Amendments to Calendar Number 495 are received and adopted. The bill will retain its place on the Third Reading Calendar.

SENATOR PATERSON: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 1193.

ACTING PRESIDENT KUHL: Senator Paterson, you wish to request -- wish to have unanimous consent to be recorded in the negative on Calendar Number 1193?

SENATOR PATERSON: Yes.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Paterson will be recorded in the negative on Calendar Number 1193.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I request unanimous consent to be recorded in the negative on Calendar Number 454.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator DeFrancisco will be recorded in the negative on Calendar Number 454.

Senator Oppenheimer.

SENATOR OPPENHEIMER: Request unanimous consent to be recorded in the negative on Calendar Number 1193.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Oppenheimer will be recorded in the negative on Calendar Number 1193.

Senator Hoffmann.

SENATOR HOFFMANN: I would request unanimous consent, Mr. President, to be recorded in the negative on Calendar Number 1193.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Hoffmann will be recorded in the negative on Calendar Number 1193.

Is there any other Senator wishing to record a vote that hasn't previously recorded, or was recorded wrongly? Hearing none, Senator, that completes the housekeeping, Senator Skelos.

SENATOR SKELOS: There being no further business, I move we adjourn until Tuesday, June 24th at 1:30.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until tomorrow, Tuesday, June 24th, note the time change, 1:30 p.m.

(Whereupon at 5:43 p.m., the Senate adjourned.)