ALBANY, NEW YORK

May 11, 1998

3:02 p.m.

REGULAR SESSION

SENATOR CHARLES FUSCHILLO, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FUSCHILLO: The Senate will come to order. I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

In the absence of clergy, may we bow our heads in a moment of silence.

(A moment of silence was observed.)

The reading of the Journal.

THE SECRETARY: In Senate, Sunday, May 10th. The Senate met pursuant to adjournment. The Journal of Saturday, May 9th, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

Mr. President, on behalf of Senator DeFrancisco, I wish to call up his bill, Print Number 4117, having -- recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Senate Print 4117, an act to amend the Navigation Law.

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

ACTING PRESIDENT FUSCHILLO: The Secretary will call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 44.

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

ACTING PRESIDENT FUSCHILLO: The amendments are received.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Nozzolio, I wish to call up his bill, Print Number 6333, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: By Senator Nozzolio, Senate Print 6333, an act to legalize, validate and confirm.

SENATOR MARCELLINO: Mr. President, I now offer the following -- I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT FUSCHILLO: The Secretary will call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 46.

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

ACTING PRESIDENT FUSCHILLO: The amendments are received.

SENATOR MARCELLINO: Mr.

President, I would like to offer amendments on the following Third Reading Calendar bills:

Bills by Senator Leibell, on page 23, Calendar Number 242, Senate Print Number 3930-A;

Senator Leibell, on page 23, Calendar Number 253, Senate Print Number 6152;

By Senator Leibell, on page 23, Calendar Number 254, Senate Print Number 6153;

By Senator Leibell, page number 23, Calendar Number 255, Senate Print Number 6154;

By Senator Leibell, on page 30, Calendar Number 458, Senate Print Number 1556;

On behalf of Senator Farley, on page number 34, Calendar Number 564, Senate Print Number 6003;

On behalf of Senator Libous, on page number 48, Calendar Number 4, Senate Print Number 3887.

Mr. President, I now move to these bills retain their place on the Third Reading Calendar.

ACTING PRESIDENT FUSCHILLO: The amendments are received and the bills will retain

their place on the Third Reading Calendar.

SENATOR MARCELLINO: Thank you, sir.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

SENATOR SKELOS: I believe there's a substitution at the desk. Would you please make the substitution.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Senator Padavan moves to discharge from the Committee on Mental Health and Developmental Disabilities Assembly Number 9184 and substitute it for the identical Senate Bill 6032.

ACTING PRESIDENT FUSCHILLO: The substitutions are received.

Senator Skelos.

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

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Legislative Resolution honoring the Grade 6 through 8 students of Teacher Kevin Yard at Hughes Magnet School, Syracuse, for their participation in the 49th Senate District "Good News! Good kids!" Youth Responsibility Program.

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

(Response of "Aye".)

Opposed, nay.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes. This is the third and final of the classes that are coming into the Senate chambers to be honored as a result of the "Good News! Good kids!" program which recognizes those students in our community that are doing things that are positive which is a clear indication that our youth of today are as good as they have ever been and maybe better despite negative things we hear daily in the news.

The group today that's being honored in this program is a group of students what the Hughes Magnet School in the city of

Syracuse and their project was a very interesting one. They learned how we do business in providing a very important service to the community.

On a school project or school trip they went to one of the local libraries and learned that it was not handicap accessible. They began the process that we almost do daily, and that is to try to figure out a way to solve a serious problem and in doing so they not only contacted the county executive, met with the county executive, brought advocacy groups together to advocate on behalf of their particular project, talked to the neighbor who was complaining about making certain - complaining about renovations would cause maybe some damage or vehicles to go on their property, consulting the Americans with Disabilities Act, doing everything that was important to do to make it happen and they made it happen, and they're being honored today for that project and for many other projects that they do advocating for their community.

So with great pleasure, I support this resolution and it's particularly important,

I think, on the Senate floor today is a young lady among that class, Becca Toole, who is wheelchair bound and not only was participating in this project but was a direct beneficiary of this very, very important project.

So I thank all of you students. You're great examples for the rest of the people in our community. You are truly good kids that are providing good news.

ACTING PRESIDENT FUSCHILLO: Thank you, Senator DeFrancisco.

On behalf of Senator Bruno and the entire Senate, let me welcome the children from the school, compliment you and hope you have a great day today.

The resolution is adopted.

Senator Skelos.

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

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: By Senator Holland, Legislative Resolution honoring the

Dominican College Division of Nursing faculty and student nurses upon the occasion of the Third Annual Nursing Leadership Conference to be held on May 11th, 1998.

ACTING PRESIDENT FUSCHILLO: The question is on the resolution. All 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, may we please have Resolution 3407 by Senator Holland read in its entirety and move for its immediate adoption.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Senator Holland, Legislative Resolution memorializing Governor George E. Pataki to proclaim May 11th through the 16th, 1998 as Bone Marrow Donor Awareness Week;

WHEREAS, this legislative body is justly proud to memorialize Governor George E. Pataki to proclaim May 11th through the 16th,

1998 as Bone Marrow Donor Awareness Week;

WHEREAS, bone marrow transplants now give people dying of blood-related diseases such as Leukemia and aplastic anemia a chance to be cured if a donor can be found whose bone marrow matches their own.

An individual has only a 30 percent chance of finding a donor among his or her own family members. Once family members have been tested and a match is not found, an individual is faced with only 1 in 20,000 unrelated people who will match closely enough to allow the opportunity for a bone marrow donation.

The national donor registry was begun in 1987 to assist in finding suitable donors from a pool of "typed" readily available volunteers. To date over two and a half million volunteers are in the registry but more are needed.

Many people in the United States have died because their desperate searches have not produced a matching donor in time. It is vital, therefore, that every effort be made to assure that the donor pool is as large and as diverse as possible.

Marrow transplants require matching tissue types which are characterized by complex genetic traits often unique to a particular race and currently about 80 percent of the volunteer donors are Caucasian.

It is of critical importance that African-Americans, Hispanics, Asians and Native Americans who are presently under-represented on the registry become volunteers so that the same hope can be offered to all Americans in need.

In memory of the late Senator Eugene Levy, it is the intent of this legislative body to designate May 11th through the 16th, 1998 as Bone Marrow Donor Awareness Week in New York State, recognizing and honoring all of those who have selflessly donated marrow or been tested as a potential donor and to enhance public awareness of the desperate need for bone marrow donors, particularly minority donors.

During Bone Marrow Donor Awareness Week, the Bone Marrow Resource Foundation will distribute educational material and conduct a donor drive to test individuals as potential donors on Monday, May 11th and Tuesday, May 12th on the third floor terrace of the Legislative

Office Building. Donors will be registered with the National Marrow Donor Program through our local donor center at the American Red Cross in Syracuse.

Funds to test individuals as potential donors during Bone Marrow Donor Awareness Week were raised through a Legislative Bowl-a-Thon on May 5th, 1998.

To date at least 1300 individuals have been tested and added to the registry as a result of funds raised through the Legislative Bowl-a-Thon and ten of these individuals have actually been matched with patients in need and donated their marrow to save a life.

Everyone has the ability to give the gift of life by donating bone marrow to someone who faces imminent death from a blood-related decease.

Through its commitment to the preservation and enhancement of human life, Bone Marrow Donor Awareness Week so clearly advances that spirit of united purpose and shared concern which is the unalterable manifestation of our American experience; now, therefore, be it

RESOLVED, that this legislative

body pause in its deliberations to memorialize Governor George E. Pataki to proclaim May 11th through the 16th, 1998 as Bone Marrow Donor Awareness Week in New York State; and be it further

RESOLVED, that copies of this resolution, suitably engrossed, be transmitted to the Bone Marrow Resource Foundation, the National Marrow Donor Program and the New York State American Red Cross of Syracuse in recognition of their efforts in educating the public and assisting those in need of a bone marrow donation.

ACTING PRESIDENT FUSCHILLO: Senator Holland.

SENATOR HOLLAND: Mr. President, as has been said in the resolution, today marks the start of our annual Bone Marrow Donor Awareness Week and donor drive in the Legislative Office Building.

For those of you who may not be aware of how I became involved in the effort to educate and encourage people about donating bone marrow, my interest grew out of my respect for my predecessor, Senator Gene Levy.

It was Senator Levy who established New York's first Bone Marrow Donor Awareness Week in 1990 and organized the bone marrow typing drive. Unbeknownst to his colleagues and staff, Gene Levy at that time was suffering from Leukemia and passed away from the disease just a few months after the first bone marrow drive held at the state Capitol in 1990.

Since then, I have worked to keep his efforts alive by sponsoring the annual bone marrow drive with the help of Assemblyman Jeff Aubry.

In order to fund the testing for the annual bone marrow blood testing drive, we had hosted a Bowl-a-Thon every spring in which Senators and Assemblymen were asked to contribute a $500 entry fee and to send four members of their staff to bowl in this fund-raising event. Albany's Playdium Bowling Center, through the generosity of its owners, Neil and Ruth Luther, donate the lanes, donate the shoes, donate the trophies and local businessmen contribute by supplying food and drinks for the bowlers and many, many raffle prizes.

Our first year the Bowl-a-Thon

raised over $10,000. The success has continued to grow with a total of $87,400 raised to offset the cost of typing drives at the state Legislature and various government agencies.

This year's event was again a tremendous success and we expect to top the $100,000 mark.

Our bone marrow drives have helped add more than 1300 names to the national bone marrow registry. More importantly, we have had ten successful matches and donors typed as part of this effort and those people saved lives.

There are three current legislative staffers we are aware of who have donated bone marrow in recent months, and I would like you to join me in honoring them today.

Kristin Rummell, who works for Senator Johnson, donated bone marrow on February 26th to an infant suffering from a blood disorder that was detected prior to birth.

Janet Matthews, who works for the Legislative Commission on Solid Waste Management, donated marrow last November to a 27-year-old Leukemia patient.

And Bob Stern, an Assembly staffer

from the Task Force on Farm, Food and Nutrition Policy, donated marrow just a few weeks ago to a 38-year-old man suffering from a life-threatening blood disorder.

These people saved individual's lives, and I would appreciate it very much if you would join me in a round of applause for these individuals who have given the gift of life.

(Applause)

The money you have donated have actually saved at least ten lives and we really do appreciate it.

Gene Levy did not have the chance to benefit from his dedication to raising awareness about bone marrow transplants and the critical need to increase the number of donors. That need is especially vital among minority populations which are under-represented in the national bone marrow registry.

So I encourage those of you who have not joined the bone marrow registry to consider doing so. Until 5:30 today and again tomorrow between 11:30 and 5:00 p.m., professionals from the Red Cross will be on hand on the third floor of the LOB to type potential

donors. I hope to see you there and you may have the opportunity to save a life.

Thank you very much for everybody who's helped.

ACTING PRESIDENT FUSCHILLO: Thank you, Senator.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Stafford.

SENATOR STAFFORD: Very briefly. I would just second again what Senator Holland has said and this is something I know a little something about. In fact, Senator Skelos' sister was part of my very fine people that were treating me, and I always -- whenever you have this, I always mention this.

The last time I saw Gene Levy, he was sitting over there and he said I've got to go to the doctor, and I said since when do you place bets at the doctor's office, and as you know, Gene used to sometimes go over there and we never saw him again, and I would just say for those of us who have been close to this, in addition to being a friend of Gene Levy's, believe you me, you can do no more for anyone than to follow the

suggestions of Senator Holland and, as I say, it means life.

ACTING PRESIDENT FUSCHILLO: Thank you, Senator Stafford.

The question is on the resolution. All 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, with the consent of the Minority, I move that Calendar Number 740, which is on the order of second report on the calendar, be advanced to third reading and have its third reading today.

ACTING PRESIDENT FUSCHILLO: Without objection, 740 is advanced to third reading.

SENATOR SKELOS: Mr. President, if you could take up the non-controversial calendar.

ACTING PRESIDENT FUSCHILLO: The Secretary will read.

THE SECRETARY: Calendar Number 165, by Senator Kuhl, Senate Print 2705-A, an act

to amend the Public Health Law, in relation to adoption.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 247, by member of the Assembly Bragman, Assembly Print 3599-A, an act to amend the Education Law, in relation to State University health care.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FUSCHILLO: The

bill is passed.

THE SECRETARY: Calendar Number 398, by Senator Leibell, Senate Print 6280, an act to amend Chapter 567 of the Laws of 1993.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 53.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 520, by Senator Larkin, Senate Print 6172, an act to amend the Insurance Law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 523, by Senator Velella, Senate Print 6343, an act to amend the Insurance Law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 557, by Senator DeFrancisco, Senate Print 6148, an act in relation to authorizing the town of Skaneateles to construct.

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

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

ACTING PRESIDENT FUSCHILLO: Read the last section.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 592, by Senator Goodman, Senate Print 6591, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 593, by Senator Goodman, Senate Print 6593, an act to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 644, by Senator Skelos, Senate Print 178, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 650, by Senator Volker, Senate Print 6156, an act to amend the Penal Law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

THE SECRETARY: Section 3. This

act shall take effect on the first day of November.

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 651, by Senator Holland, Senate Print 6174-B, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 659, by Senator Cook, Senate Print 722, an act to amend the Executive Law.

ACTING PRESIDENT FUSCHILLO: Read

the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 663, by Senator Alesi, Senate Print 5118, an act to amend the Executive Law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 705, by Senator Velella, Senate Print 6423, an act to amend the New York City Civil Court Act.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

THE SECRETARY: Calendar Number 740, by Senator Larkin, Senate Print 6731, an act to amend the Racing, Pari-mutuel Wagering and Breeding Law.

ACTING PRESIDENT FUSCHILLO: Read the last section.

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

ACTING PRESIDENT FUSCHILLO: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT FUSCHILLO: The bill is passed.

Senator Larkin, that completes the

reading of the calendar.

SENATOR LARKIN: Is there any housekeeping at the desk, Mr. President?

ACTING PRESIDENT FUSCHILLO: No.

SENATOR LARKIN: There being no further business -

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Paterson.

SENATOR PATERSON: I didn't want the session to end without advising Senator Larkin what an excellent presentation there was for the West Point Academy last week, which I could have told him in person, but I wanted to break up the no-hitter.

Thank you, Mr. President.

ACTING PRESIDENT FUSCHILLO: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

SENATOR LARKIN: Senator Farley.

SENATOR FARLEY: Thank you, Senator Larkin and Mr. President.

I just wanted to make an announcement. There will be a 4:30 meeting of

the Banks Committee in Room 124.

ACTING PRESIDENT FUSCHILLO: There will be a 4:30 meeting of the Banking Committee in Room 124.

Senator Larkin.

SENATOR LARKIN: I move we adjourn now until Tuesday, May the 12th, at 3:00 p.m.

ACTING PRESIDENT FUSCHILLO: On motion, the Senate stands adjourned until Tuesday, May 12th, at 3:00 p.m.

(Whereupon, at 3:25 p.m., the Senate adjourned.)