ALBANY, NEW YORK

June 3, 1998

11:02 a.m.

REGULAR SESSION

SENATOR JOHN R. KUHL, JR., Acting President

STEVEN M. BOGGESS, 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 take their places, staff to take their places, please. Ask everybody in the chamber to rise and join with me in saying the Pledge of Allegiance, 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 Dr. Dennis Meyer of Our Redeemer Lutheran Church of Scotia, New York. Reverend Meyer for the invocation.

REVEREND MEYER: I thank you for the invitation. Like to take this opportunity just for the moment to introduce my daughter Megan, who is here with me today. Let us pray.

Creator of an infinite variety, You must love our diversity. Teach us to value our differing abilities, to find ways to include everyone into the fullness of our human community so that all can participate and contribute to this society.

Creator of an ordered and harmonious cosmos, You willed that all things exist in exquisite interdependence. Guide us to find responsible ways to care for others and to accept our needs for their gifts.

Creator of each and every individual thing, you have endowed all of us with a precious and unique identity. Help us to guard the independence and dignity of every human being. On this Disability Awareness Day, show us the way that people with disabilities and those who are temporarily able can work together with You to build a better world for all of us.

You have called us to ventures of which we can not see the ending by paths as yet untrodden through perils unknown. Bless the Senate of New York State and the people of this state. Give us faith to move forward with good courage knowing that Your hand is leading us and Your love supporting us. Amen.

ACTING PRESIDENT KUHL: The reading of the Journal.

THE SECRETARY: In Senate,

Tuesday, June 2nd. The Senate met pursuant to adjournment. The Journal of Monday, June 1st, was read and approved. On motion, 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 Maziarz.

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

Mr. President, on behalf of Senator Rath, on page 19 I offer the following amendments to Calendar Number 638, Senate Print Number 6485, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL:

Amendments to Calendar Number 638 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

Again on behalf of Senator Rath, on page number 37, I offer the following amendments to Calendar Number 1010, Senate Print Number 5383-B and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1010 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Thank you, Mr. President.

On behalf of Senator Goodman, on page 42 I offer the following amendments to Calendar Number 1090, Senate Print 6988, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1090 are

received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Maziarz.

SENATOR MAZIARZ: Thank you again, Mr. President.

On page number 43, on behalf of Senator Goodman, I offer the following amendments to Calendar Number 1093, Senate Print 7317, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 1093 are received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, I believe there are 12 resolutions at the desk, by Senator Wright. May we have the titles read and move for their immediate adoption.

ACTING PRESIDENT KUHL: Would you like to do that in one motion, Senator Skelos?

SENATOR SKELOS: Yes.

ACTING PRESIDENT KUHL:

Secretary will read the titles to the 12 privileged resolutions, by Senator Wright, which are at the desk, and then we will take a motion to adopt them at one time.

Secretary will read.

THE SECRETARY: By Senator Wright, Legislative Resolution honoring Elizabeth Doran, Reporter, Syracuse Newspapers, upon the occasion of her designation as the recipient of New York State's 1998 United States Small Business Administration Media Advocate of the Year Award.

By Senator Wright, Legislative Resolution honoring Sylvia F. Patterson, independent television producer, upon the occasion of her designation as the recipient of New York State's 1998 United States Small Business Administration Media Advocate of the Year Award.

By Senator Wright, Legislative Resolution honoring Roslyn D. Goldmacher, Executive Director of the Long Island Development Corporation, upon the occasion of her designation as the recipient of New York

State's 1998 United States Small Business Administration's Financial Services Advocate of the Year Award.

By Senator Wright, Legislative Resolution honoring Olga Cohen, President of Olga G. Marcus Cosmetics, Inc., upon the occasion of her designation as the recipient of New York State 1998 United States Small Business Administration Small Business Exporter of the Year Award.

By Senator Wright, Legislative Resolution honoring Lawrence A. Castiglia, President of Tennyson Machine Company, Inc., upon the occasion of his designation as recipient of New York State's 1998 United States Small Business Administration's Small Business Person of the Year Award.

By Senator Wright, Legislative Resolution honoring Jeanie D. Roberts, Executive Director of the American Red Cross, Clinton Northern Essex Chapter upon the occasion of her designation as the recipient of New York State's 1998 United States Small Business Administration's Phoenix Award.

By Senator Wright, Legislative

Resolution honoring Jason Levinthal, President of Line Skiboards Manufacturing, Inc., upon the occasion of his designation as the recipient of New York State's 1998 United States Small Business Administration's Small Business Exporter of the Year Award.

By Senator Wright, Legislative Resolution honoring Dorothy C. Johnson, President of Johnson Securities, Inc., upon the occasion of her designation as the recipient of New York State's 1998 United States Small Business Administration Minority Small Business Advocate of the Year Award.

By Senator Wright, Legislative Resolution honoring William G. Ballard, President of Norwich Aero Products, Inc., upon the occasion of his designation as the recipient of New York State's 1998 United States Small Business Administration Small Business Person of the Year Award.

By Senator Wright, Legislative Resolution honoring David Terrenzio, Senior Vice-president and Senior Loan Officer of the New York State Business Development Corporation and the Empire State Certified

Development Corporation, upon the occasion of his designation as the recipient of New York State's 1998 United States Small Business Administration Financial Services Advocate of the Year Award.

By Senator Wright, Legislative Resolution honoring Brenda L. Copeland, President and Director of the Bank of Castile, upon the occasion of her designation as the recipient of New York State's 1998 United States Small Business Administration's Financial Services Advocate of the Year Award.

And by Senator Wright, Legislative Resolution honoring Ursula Rickenbacher, President and Chief Executive Officer of Ursula of Switzerland, upon the occasion of her designation as the recipient of New York State's 1998 United States Small Business Administration Phoenix Award.

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolutions are adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President there is a resolution at the desk sponsored by Senator Libous which was adopted on Monday. May we please have it read in its entirety.

ACTING PRESIDENT KUHL: There is a privileged resolution by Senator Libous at the desk. I'll ask the Secretary to read the resolution in its entirety.

THE SECRETARY: By Senator Libous, Legislative Resolution commending the Special Olympians upon the occasion of completing the Capital District Leg of the New York State Special Olympics Law Enforcement Torch Run at the Opening Ceremonies marking the 18th Annual Legislative Disability Awareness Day Wednesday, June 3rd, 1998, at the State Capitol.

WHEREAS, it is the intent of this legislative body to recognize and pay just tribute to those citizens who embody the true American spirit, demonstrating personal courage and conviction in pursuit of athletic

achievement without regard to physical limitation;

The 18th Annual Legislative Disability Awareness Day provides individuals with an opportunity to acknowledge and understand the needs and abilities of people with disabilities throughout New York State;

New York State Police Superintendent James W. McMahon, over 40 law enforcement officers and Special Olympians from across the state as they complete the Capital District Leg of the New York State Special Olympics Law Enforcement Torch Run, will take part in the opening ceremonies of the 18th Annual Legislative Disability Awareness Day June 3rd, 1998;

The Law Enforcement Torch Run for Special Olympics is an international series of torch relays run by law enforcement officers leading up to each state or nation's summer games. Law enforcement officers raise money in conjunction with their respective torch runs for their local Special Olympics program;

The Law Enforcement Torch Run

began in 1981 when Wichita, Kansas Police Chief Richard LaMunyon saw an urgent need to raise funds for an increased awareness of Special Olympics. He conceived of the idea of a torch run as a way to involve local law enforcement personnel in the community with Special Olympics. After three years of successful torch runs in Kansas, he presented the program to the International Association of Chiefs of Police (IACP);

With IACP's enthusiastic support and leadership, as well as the involvement of all facets of the law enforcement community -- Sheriffs' Associations, police unions, state, county, municipal, military and federal law enforcement, and correction officers -- the torch run expanded into seven states by 1985, 43 states by 1986 and 50 states and 25 nations in 1997;

Every two years law enforcement officers representing their state or nation's torch run program comprise a "Final Leg Team" which carries the Olympic flame into the opening ceremonies of the Special Olympics

World Games;

WHEREAS, it is the sense of this legislative body to recognize and applaud the achievements of its citizens who would elect to challenge life with uncommon valor and determination, demonstrating by example and purposeful action that commitment to personal goals is the wellspring of self fulfillment and achievement;

NOW, THEREFORE, BE IT RESOLVED that this legislative body pause in its deliberations and commend the Special Olympians upon the occasion of completing the Capital District Leg of the New York State Special Olympics Law Enforcement Torch Run at opening ceremonies marking the 18th Annual Legislative Disability Awareness Day, Wednesday, June 3rd, 1998 at the State Capitol; and

BE IT FURTHER RESOLVED that copies of this resolution, suitably engrossed, be transmitted to selected representatives of persons with disabilities.

ACTING PRESIDENT KUHL: As the Deputy Majority Leader indicated to the

members, this resolution was previously adopted, but the chair will recognize Senator Libous at this time to speak on the resolution.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President.

It is indeed an honor for me to stand before you today on our Legislative Disability Awareness Day -- and we've had a full day of festivities -- and, Mr. Chairman, let me first introduce to my colleagues our interpreter who is standing next to me, Dale Neimeyer, and we have another interpreter who is taking a break right now -- and Trudy, could you please stand -- Trudy Gilbert, and they have been with us through the festivities and are helping us to communicate what we do here to those folks with disabilities.

Let me first say that the Torch Run is a very special honor when we look at the Special Olympics, and I want to say thank you to Superintendent McMahon and all of the members, men and women of the New York State Police who participated this morning and for

their hard work and dedication for New York State's Special Olympics, helping people with disabilities.

Before I talk about Special Olympics, I want to share that on this Disability Awareness Day, over in the well, I would invite my colleagues, their staff members, to stop by any of the 30 exhibits. Some of the exhibits are from their home towns, people from their district. They'll find that there are a number of interesting things that they will learn in dealing with and helping people in New York State and in their communities with disabilities and, Mr. President, I think it's important that on this day and later today, we will be passing a number of pieces of legislation that will help people in New York who are disabled, that we recognize that there are a number of folks who may not be as fortunate as we are and who need the extra help of government, and that's why we have this very special day.

Let me talk just for a moment and thank a few people. We have with us to day up in the gallery from Special Olympics

Neil Johnson, who is the CEO of New York State's Special Olympics. We have also a couple of our Special Olympian athletes, Ezra Canty and Kevin Brown, and I would like Ezra and Kevin just to stand for a minute because, as I speak on this resolution, many of you might have seen Ezra's picture just a few months ago because he was with Governor Pataki and his picture is now on the Wheaties box as Wheaties is honoring New York State's Special Olympians, and Ezra was honored to have his picture, along with four other athletes, on that box.

So we salute both of you today as we honor our Special Olympians.

We also have the Chairman of the Board and individual who is from the United Teachers, Tony Bifaro, who has been very dedicated, and the United Teachers have been extremely dedicated to the Special Olympics for another year and, Tony, thank you for joining us today.

Mr. President, the Torch Run is very significant to the entire Special Olympic program because these Special Olympians

participate throughout New York State on a number of different week ends, a number of different days, and I think all too often the goals of Special Olympics are overlooked because those of us who are in this chamber feel that Special Olympics might be just one day in their district. It is indeed a number of days, many days throughout New York State, and it was indeed a pleasure to have the torch come through, and I know that at 12:00 o'clock noon today, Mayor Jennings is also having a ceremony at his office.

ACTING PRESIDENT KUHL: Thank you, Senator Libous.

On behalf of Senator Bruno and Senator Libous and all the members of the chamber, we welcome these very distinguished guests to the chamber who are joining us on this special Disability Awareness Day. Enjoy your stay in the Capitol and keep doing what you're doing. We appreciate it and we're with you and, if you'd like to stand, we'd like to recognize you. I'm sure the members of the chamber would love to see all of you who are here.

(Applause)

The Secretary will read the other privileged resolution at the desk.

THE SECRETARY: By Senator Libous, Legislative Resolution commending Bonnie Snapp upon the occasion of her competing in the Special Olympics of New York State.

WHEREAS, it is the intent of this legislative body to recognize and pay just tribute to those citizens who embody the true American spirit, demonstrating personal courage and conviction in their pursuit of athletic achievement without regard to physical limitation;

This legislative body is justly proud to honor Bonnie Snapp upon the occasion of her competing in the Special Olympics of New York State;

Bonnie Snapp has been participating in Special Olympics since she was six years old. She has attended area, sectional and state events, competed in soccer, bowling, swimming, volleyball, basketball, track and field, floor hockey and

softball. She was recently chosen the WBNG-Channel 12 (Binghamton) Academic All Star for her participation in Special Olympics;

Bonnie Snapp graduated from Newark Valley High School as part of the Class of 1997. She also graduated from Broome-Tioga BOCES Commercial Foods and Work Study Program. During this time she received the President Academic Excellence Award;

Bonnie Snapp was very active in 4-H where she has raised lambs and works on art projects. She won awards at the State Fair for public speaking and for her art work;

Today Bonnie Snapp is employed in the area of food service;

WHEREAS, it is the sense of this legislative body to recognize and applaud the achievement of its citizens who would elect to challenge life with an uncommon valor and determination, demonstrating by example and purposeful action, that commitment to personal goals is the wellspring of self fulfillment and achievement;

NOW, THEREFORE, BE IT RESOLVED

that this legislative body pause in its deliberations to commend Bonnie Snapp upon the occasion of her competing in the Special Olympics of New York State; and

BE IT FURTHER RESOLVED that a copy of this resolution, suitably engrossed, be transmitted to Bonnie Snapp.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Libous, on the resolution.

SENATOR LIBOUS: Thank you, Mr. President.

Again it's indeed an honor for me to stand, and, Bonnie, I'm going to ask you to stand if you would please, while I make some brief remarks honoring you.

Bonnie is an outstanding young woman. She has done an extraordinary job. She told me earlier today -- we did a television show, and she shared with me that she began in Special Olympics, her first grade teacher got her interested, and I said to Bonnie, "What is most exiting about the Special Olympics program?" and she said, "You know, it gives me self-esteem and self

respect, and I just enjoy participating, and," she says, "winning isn't too bad either," and certainly she has won her share as you can see by the medals that she is displaying around her neck.

We talked a little bit about some of the activities she participates in and Bonnie likes soccer, bowling, swimming, volleyball, basketball, track and field events, floor hockey and softball, and again I shared this this morning at the event, and I asked Bonnie what is her favorite sport and she said basketball, and I said, "Why?" Bonnie then shared with me, she said, "I like when the ball swishes through the net." She says, "I feel like Michael Jordan," and I shared with her that probably a number of the members of the NBA wished they also would feel like Michael Jordan from time to time.

Bonnie is also a bright young lady because, as was mentioned in the resolution, she has passed a number of courses, received awards from the President of the United States, received awards from local businesses and, Mr. President, I think that

Bonnie is indicative of the type of individual that we have in our Special Olympics program and, Bonnie, I'm extremely proud to say that you come from my district and, after hearing you speak this morning, I hope that you are not interested in running for public office because you'd have the crowds to their feet, and I want to welcome again Bonnie and she has a couple of people with her I'd like to introduce. Her mother Linda is with her today and if she would stand, and two very good friends of mine and very, very good friends of all the Special Olympians, the two individuals who have been so dedicated in their life to the Broome-Tioga Special Olympics, John and Jane Crosby. Would they stand up and take a bow.

Mr. President, again on this Legislative Disability Awareness Day, it is indeed an honor for this body to honor these outstanding individuals.

ACTING PRESIDENT KUHL: Thank you, Senator Libous.

For the members' benefit, this resolution was previously adopted, but on

behalf of Senator Bruno, Senator Libous, all the members of the chamber, Bonnie, we welcome you to the chamber. We congratulate you on your many victories, certainly your courageous participation in all the events that you've done. We urge you to continue and make a contribution, as we know you will, to life and to New York State.

Thank you for sharing just a small moment of your life with us today. Thank you.

(Applause)

Senator Velella.

SENATOR VELELLA: Mr. President can we now go to the controversial calendar - non-controversial calendar, starting with Calendar Number 1.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1 off of the controversial calendar.

THE SECRETARY: Calendar Number 1, by Senator Libous, Senate Print 1122-A, an act to amend the Vehicle and Traffic Law, in relation to parking spaces for handicapped persons.

ACTING PRESIDENT KUHL:

Secretary will read the last section.

THE SECRETARY: Section 3.

This act shall take effect on the first day of September.

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 2, by Senator Libous, Senate Print 3831, an act to amend the Mental Hygiene Law and the Executive Law, in relation to authorizing providers of service.

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 332, by Senator Libous, Senate Print 1125, an act to amend the Public Health Law, in relation to requiring consent for visual observation.

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 -

SENATOR VELELLA: Mr. President.

ACTING PRESIDENT KUHL: Senator Velella.

SENATOR VELELLAl: Can we take

up Calendar Number 636 at this time.

ACTING PRESIDENT KUHL:

Secretary will read Calendar Number 636.

THE SECRETARY: Calendar Number 636, by Senator Johnson, Senate Print 6337, an act to amend the General Municipal Law and the Education Law.

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 49.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Velella.

SENATOR VELELLA: Can we go to Calendar 767, please.

ACTING PRESIDENT KUHL:

Secretary will read Calendar Number 767.

THE SECRETARY: Calendar Number 767, by Senator Skelos, Senate Print 6377, an

act to amend the Town Law, in relation to authorizing.

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.

Senator Velella.

SENATOR VELELLA: Mr. President, can we go to Calendar 1178, please.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1178.

THE SECRETARY: Calendar Number 1178, by Senator Goodman, Senate Print 7072-B, an act to amend the Education Law, in relation to student financial aid.

ACTING PRESIDENT KUHL: 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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Mr. President, can we now go back to the non-controversial calendar in the regular order.

ACTING PRESIDENT KUHL: Secretary will read the non-controversial calendar beginning with Calendar Number 632, in regular order.

THE SECRETARY: Calendar Number 632, by Senator Cook, Senate Print 6274, an act to amend the General Municipal Law, in relation to establishing.

ACTING PRESIDENT KUHL: 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 51.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 783, by Senator Hannon, Senate Print 7378.

SENATOR VELELLA: Lay that aside for the day, please.

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

THE SECRETARY: Calendar Number 814, by Senator Saland, Senate Print 7302, an act to amend the Social Service Law, in relation to disclosure.

ACTING PRESIDENT KUHL: 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 898, by Senator Trunzo, Senate Print 7237, an act to amend the Civil Service Law, in relation to permitting deputy sheriffs.

ACTING PRESIDENT KUHL: 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 902, by Senator Marchi, Senate Print 7412, an act to amend the Education Law, in relation to the right of retired members.

ACTING PRESIDENT KUHL:

Secretary will read the last section.

SENATOR LEICHTER:

Explanation.

ACTING PRESIDENT KUHL: Senator Leichter, did you wish that bill laid aside?

SENATOR LEICHTER: Yes.

ACTING PRESIDENT KUHL: The bill will be laid aside at the request of Senator Leichter.

THE SECRETARY: Calendar Number 929, by Senator Volker, Senate Print 395-B.

SENATOR VELELLA: Lay that aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 934, by Senator Velella, Senate Print 6639-B, an act in relation to authorizing state of New York.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 991, by Senator Trunzo, Senate Bill 7279, an act to amend the Penal Law, in relation to the unlawful sale of tobacco products to a child.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1001, by Senator Seward, Senate Print 6628, an act to amend the Social Service Law, in relation to required training for child day

care providers.

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 1005, by Senator Velella, Print Number 6253-A, an act to amend Chapter 435 of the Laws of 1895.

ACTING PRESIDENT KUHL: 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 1025, by Senator Volker, Senate Print 6739-A, an act to amend the Local Finance Law.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1030, by Senator Balboni, Senate Print 7152, an act in relation to authorizing the assessor of the county of Nassau.

ACTING PRESIDENT KUHL: 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 54, nays 1, Senator Cook recorded in the negative.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1040, by Senator Seward, Senate Print 3486-A, an act to amend the Public Service Law and the Uniform Commercial Code.

SENATOR SMITH: Lay aside.

ACTING PRESIDENT KUHL: Lay the bill aside.

THE SECRETARY: Calendar Number 1066, by Senator Leibell, Senate Print 3538-A, an act to amend the Military Law.

ACTING PRESIDENT KUHL: 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.

THE SECRETARY: Calendar Number 1089, by Senator Marcellino, Senate Print 6913, an act to amend the Tax Law, in relation to termination of sale.

ACTING PRESIDENT KUHL: 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 1106, by Senator Johnson, Senate Print 7433, an act to amend the Public Authorities Law, in relation to emergency contracts.

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1119, by Senator Kuhl, Senate Print 6825-A, an act to amend the Agriculture and Markets Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1148, by Senator DeFrancisco, Senate Print 5978, an act to amend the Surrogate's Court Procedure Act.

ACTING PRESIDENT KUHL:

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 55.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 1149, by member of the Assembly Sweeney, Senate Print 9211, an act to amend the Uniform District Court Act.

ACTING PRESIDENT KUHL:

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.

Senate Velella, that completes the reading of the non-controversial calendar. What's your pleasure?

SENATOR VELELLA: Mr. President, can we go to motions and resolutions, and call up Resolution Number 3701 which has been previously passed. Like to ask that the title be read and recognize Senator Maltese.

ACTING PRESIDENT KUHL: We'll return to motions and resolutions. I'll ask the Secretary to read the title to the privileged resolution by Senator Maltese, 3701 I believe it was. Secretary will read.

THE SECRETARY: By Senator Maltese, Legislative Resolution honoring the New York City Police Sergeants upon the occasion of the First Annual Legislative Luncheon of the Sergeants Benevolent Association.

ACTING PRESIDENT KUHL: Chair recognizes Senator Maltese on the resolution.

SENATOR MALTESE: Mr.

President, this is an auspicious occasion not only for the New York City Police Sergeants but for this body. We will be recognizing by this resolution, in effect, our first line of defense in the city of New York, the New York City Police Sergeants who supervise police officers and detectives in over 200 commands in the entire city of New York.

There has been much said about the decreassing crime throughout the country and throughout the City. Certainly in New York City, a large part of that decrease can be attributed to the heroism and dedicated efforts of these fine police officers. They are superior officers in every sense of the word.

They are here today for establishing a tradition, their First Annual Legislative Luncheon, recognizing that more and more the state Legislature has an effect on their daily lives and the way they conduct their fine services to the City.

For 70 years, they have been represented by the Sergeants Benevolent Association, which is the preeminent voice and

advocate of the New York City Police Department, the Police Sergeants. They are represented here in the chamber by their eminent president, Joe Cole and the recording secretary, Alan Carina, as well as represented in the balcony by many of the officers who journeyed here to Albany to hold their legislative lunch, and as an indication of the fact that they are also quite perceptive in their legislative efforts, their luncheon today will honor our esteemed Majority Leader, Jos... Senator Joseph Bruno.

They are more than 4500 in the city of New York, 4500 first line of defense, defending our people in the City. We owe a great debt of gratitude to them and their families who permit them and work with them so that they could provide the safety to the New York City citizens.

Mr. President, I'm proud to sponsor this resolution. The resolution is open to any that would care to join in the resolution, and I wish with your indulgence to ask them to stand, the Police Sergeants to stand, to be recognized by this body.

(Applause)

ACTING PRESIDENT KUHL: Senator Goodman, on the resolution.

SENATOR GOODMAN: On the resolution, Mr. President.

Mr. President, as you probably are aware, we've had a remarkable reduction in crime in the city of New York in the last several years and without question, the group of sergeants who are represented here today are signally responsible for that outstanding result.

The sergeants represent the supervisory responsibility for the department at its operating level and, without their very keen and continuous oversight of what occurs in the day-to-day situation in law enforcement in New York, there is no question that we could not have achieved this extraordinary result for the citizens of the City.

So I join most warmly with Senator Maltese, and I'm delighted that he introduced the resolution. I hope that it will, of course, be unanimously passed and we salute the sergeants for their superb work

both on the line and in supervision of the patrolmen who represent the key work of the department.

We're particularly happy that, as a result of action taken in this body, it was possible to augment the police force, putting more patrols on the street under the supervision of these able sergeants. We salute them and we thank them for their dedicated work.

ACTING PRESIDENT KUHL: Is there any other member wishing to speak on the resolution?

Senator Velella, there are a number of members who have indicated that they would like to be co-sponsors. Should we follow the standard procedure and put all of the members on the resolution as co sponsors?

SENATOR VELELLA: Yes, Mr. President, and if they desire not to be, they will contact the desk.

ACTING PRESIDENT KUHL: Anyone wishing not to be a co-sponsor of Resolution Number 3701, by Senator Maltese, please

indicate to the desk. This resolution was previously adopted, but on behalf of Senator Bruno, who you're honoring later at the luncheon, gentlemen, Senator Maltese and all the City members, certainly all the members in the chamber, we welcome you to the chamber. We certainly recognize the dedicated and heroic service that you provide not only to the citizens of the city of New York but to all the citizens of this state. We compliment you on that service. We are -- those of us who visit the City on more than one occasion are appreciative of your efforts to make the City safe for not only the residents but for the visitors.

So keep up the good work, enjoy your stay here, and thank you for coming and sharing just a moment with us.

Thank you.

(Applause)

Senator Velella.

SENATOR VELELLA: Would you recognize Senator Mendez for a moment.

ACTING PRESIDENT KUHL: Chair recognizes Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President.

I want to take this opportunity to introduce two lovely ladies that have worked very, very hard in a problem that is very dear to my heart. I am referring to the Puerto Rican lawyer Josephine Mercado, who with me are the founders of an organization that is called First Saturday in October, and the purpose of that organization is to provide services and information to the -- those under-served and unserved communities so that the women realize that the earlier they go for detection, when they do so, their life is saved; and also here with Ms. Mercado is Julie Relyea, the president of the board of that organization.

So, Mr. President, I just want to welcome Ms. Mercado and Ms. Relyea. Thank you.

ACTING PRESIDENT KUHL: Thanks, Senator Mendez, for that welcoming note.

Senator Velella.

SENATOR VELELLA: Can we return to the controversial calendar now, please.

ACTING PRESIDENT KUHL: Secretary will continue to read the controversial calendar, beginning with Calendar Number 902, by Senator Marchi.

THE SECRETARY: Calendar Number 902, by Senator Marchi, Senate Print 7412, an act to amend the Education Law, in relation to retired members.

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

SENATOR PATERSON: Mr. President, I'm just rising to inform you that Senator Leichter laid this bill aside. We just wanted to see if we could hold it just a second. I think he should be right out here.

SENATOR LEICHTER: Yes, an explanation.

ACTING PRESIDENT KUHL: Senator Marchi, an explanation of Calendar Number 902 has been requested by Senator Leichter now that he has his coffee.

SENATOR MARCHI: Mr. President, this bill is not complicated or unfair. It's an equitable treatment that is accorded to other associations in the city and state of

New York in the matter of check-offs on either employment or retirement. This is completely voluntary. You can join if you want to. You don't have to join if you're -- if you feel adversely, and you wish to continue perhaps a payment personally.

SENATOR LEICHTER: Explanation satisfactory. Thank you.

ACTING PRESIDENT KUHL: Explanation satisfactory, Senator Leichter?

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 57.

ACTING PRESIDENT KUHL: The bill is passed.

THE SECRETARY: Calendar Number 929, by Senator Volker, Senate Print 395-B, an act to amend the Public Health Law and the Multiple Dwelling Law.

SENATOR DOLLINGER: Explanation.

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Lay the bill aside temporarily.

THE SECRETARY: Calendar number 1040, by Senator Seward, Senate Print 3486-A, an act to amend the Public Service Law and the Uniform Commercial Code.

SENATOR OPPENHEIMER: Explanation.

ACTING PRESIDENT KUHL: Senator Seward, an explanation of Calendar Number 1040 has been requested by Senator Oppenheimer.

SENATOR SEWARD: Certainly, Mr. President.

As we all know, the Public Service Commission has reached settlement agreements with the various investor-owned utilities across New York State to restructure the utility industry, usher in an era of competition.

We've seen rate savings for the first time in this state as a result, and the

bill before us today is designed to supplement the PSC action by providing additional rate relief.

Now, it does it by establishing a financing mechanism through which rates could be reduced as a result of the low cost financing of certain utility assets and in tangible property such as regulatory assets including demand side management provisions, IPP contracts for certain stranded assets.

Now, the bill authorizes, but it does not require, that the utility submit a plan for refinancing to the Public Service Commission for approval and then the Commission could, after reviewing the plan, determine that they could approve it in part or in whole under the condition that there be significant ratepayer relief involved with the refinancing plan.

Additionally, the Commission would be authorized to obtain concessions from the utilities applying for the rate reduction refinancing such as rate reductions and a write-down of a portion of utility stranded costs. Those are just some examples of the

so-called concessions that could be wrung from the utilities under this legislation.

Now, the bill calls for a full public notice of the plans and the results of the negotiations with the Public Service Commission, and it calls for judicial review on the part of any aggrieved party that could seek that judicial review.

Now, the bill sunsets on December 31st, 1999, so we're talking about a piece of legislation that I would describe as a bridge to competition. It's a short-term bill, and it deals with the current expenses that are being paid by our ratepayers right now, and it provides a means for those ratepayers to derive some savings, rate relief, through this lower cost financing.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: Actually, I don't have any questions. I -

ACTING PRESIDENT KUHL: Secretary will read the last section.

SENATOR OPPENHEIMER: I would like to speak on the bill.

ACTING PRESIDENT KUHL: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: And I'm not sure why we need this bill now because so much of the debt has been refinanced. I can't understand why we're still looking at this, but this would recover through the rates any investments that the utilities made in the past regardless of whether the investment was a wise and a prudent one, and it would establish a permanent rate order that's based on intangible property.

Considering the fact that so much refinancing has taken place, I really think the stockholders are not being harmed and I might have seen a reason for this perhaps in the past, but at this juncture I really don't see a need for this.

This gives the PSC complete discretionary authority to decide what costs will be guaranteed to be recoverable from the ratepayers in the utility rates and these decisions will go beyond the reach of us, the Legislature, and also the judiciary.

New York is the only state

proceeding with deregulation without having a law to guide what will be a very major public policy. In New York State, all decision making has been done by the PSC, by -- by rule or fiat, and completely cuts us off. The savings to be realized by securitizing debts are very much smaller than was the case when this bill was introduced two years ago and that's because, as I said earlier, the interest rates have fallen since then and utilities have already refinanced so much of their debt and equity that I don't understand why this is before us now.

The PSC estimates that a securitization law could save utilities about $163 million per year, and that may decrease rates for residential and small business customers by a mere one percent. Does a potential one percent decrease justify the obligation of legislators and judiciary recourse over securitization decisions?

There is a Tonko bill which I won't go into, but it has limits. It prescribes restrictions and limits and, if we are to move ahead with this concept, I would

strongly prefer seeing before us the Tonko bill because it does prescribe those limits, and it caps the total amount which can be securitized at $5 billion statewide and the associated ratepayer savings must be at least five percent, not one percent, and I won't go into the bill, but I would commend you looking at that bill because it does prescribe restraints and restrictions.

Thank you. I'll be voting no. This is a bill that is not, needless to say, supported by the EPL.

ACTING PRESIDENT KUHL: Any other Senator wishing to speak on the bill?

Chair recognizes Senator Waldon.

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

Would the gentleman yield for a question?

ACTING PRESIDENT KUHL: Senator Seward, do you yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR WALDON: Senator, would you be kind enough to explain to myself and my colleagues -- can you hear me?

SENATOR SEWARD: Yes.

SENATOR WALDON: -- the parameters of the qualified rate order?

SENATOR SEWARD: The parameters of the qualified rate order? When you refer to "the parameters of the qualified rate order" that is the order that the PSC would issue at the end of the process that I had described earlier in terms of having the utility submit a plan for refinancing of certain what we call intangible assets currently, such as IPP contracts, demand side management programs and those expenses associated with that, environmental remediation programs, are just some examples of the so-called intangible assets, and what it would -- what we would be doing, what the PSC would be doing, if they approved the plan would be to raise from the level of expectation to the level of a property right the intangible properties belonging to a utility and that, of course, by doing that

would open up the lower cost financing and under the bill those savings would be required to be passed on to the ratepayers, specifically residential and small commercial ratepayers.

SENATOR WALDON: Would the gentleman continue to yield, Mr. President?

ACTING PRESIDENT KUHL: Senator Seward?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT KUHL: Certainly, Senator.

SENATOR WALDON: Senator, if we pass this proposal and if it eventually becomes law in the state of New York, once that qualified rate order is agreed to through the PSC and the particular utility in question, is there any opportunity for this legislative body to revisit the agreement just in case one time out of the millions of contracts they will do was determined by ourselves to be abusive, to be too punitive in terms of the pass-along to the ratepayers?

SENATOR SEWARD: Well, Mr. President and Senator Waldon, I would say that

there is no legislative -- direct legislative oversight over this process. There is, as I pointed out earlier, a full disclosure provision, and, of course, judicial review.

SENATOR WALDON: One last question, Senator.

ACTING PRESIDENT KUHL: Senator, do you continue to yield?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT KUHL: Senator continues to yield.

SENATOR WALDON: Senator, thank you for your response, and I just want to make sure I'm clear. I believe what you have said is the following, that once the qualified rate order is agreed to between the PSC and the particular utility in question, we cannot intervene legislatively; is that correct? This legislative body.

SENATOR SEWARD: Well, Senator, we are the New York State Senate. As far as the New York State Legislature, obviously we can change -- we change laws as we as legislators see the need. However, the legislation calls for judicial review rather

than the direct legislative approval or disapproval of any of these qualified rate orders that are issued by the PSC.

SENATOR WALDON: Thank you very much, Senator. Thank you, Mr. President.

Mr. President, is it appropriate now to speak on the bill?

ACTING PRESIDENT KUHL: Senator Waldon, on the bill.

SENATOR WALDON: I would encourage -- thank you, Mr. President. I would encourage my colleagues not to support this, because what may happen with the PSC - and I have no desire to point my finger to the PSC as doing a scurrilous act, but it may happen that the PSC makes a mistake and in making that mistake the utility will be allowed to elevate those intangible costs to the point where it may be particularly punitive to the catchment area of that utility and the ratepayer will be creating the bottom line in a greater sense for the utility.

I don't think that's fair. I think that ratepayers should have passed along to them costs which are necessary, but not

overly burdensome, and so I cannot support something which does not in and of itself allow us to intervene. You would have to wait for judicial action or we would have to convene ourselves and pass new legislation to deal with this what may be, in my opinion, one day a mistake, so I would encourage you to take a chance with me and let's pull the plug on this one and vote no.

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Mr. President I voted in favor of this bill last year. I'm going to vote in favor of it again. I have read with some interest the Industrial Energy Consumers Coalition memorandum which talks about some additional refinements in the concept of the securitization which I think, if this bill eventually gets to a conference committee, would be part of that discussion, and I hope part of the improvement of the overall package, but I still believe -- and I appreciate Senator Waldon's comments about the final rate that ratepayers have to pay and

what role this body has in those rates and when we intervene and what power we have over them.

As we go through this topsy-turvy world of energy deregulation, I think it's easy for us to sit here after 20 years of saying we've pretty much controlled the rates which residential and commercial and large industrial customers have paid. We've either done that through the PSC or we've done it through legislation. Our attempts to set prices, or our attempts to fix prices in this marketplace in the energy business have largely been a failure. I mean if there is anything that the six-cent law taught us, it was the most expensive entry into the marketplace that the people of this state will ever have to pay for.

Many of the intangible assets that are going to be covered by securitization or by some other financing scheme are there because of the six-cent law. We went in the marketplace; we told people that we would guarantee a particular rate of return, a particular price, and it ended up being a

catastrophe in this state. So it seems to me that this issue of what people ought to pay for electrical energy and what people will pay and how the marketplace is going to dictate that price or set that price is a terribly difficult thing to forecast, but it seems to me that the concept of securitization allowing a more favorable climate to reduce some costs of our utilities who, for 30 years have been our captive, is not a bad way to go.

I hope that the chairman, if this does go to a conference committee, will look at the issues raised in the Independent Energy Consumeres Coalition memo and maybe we can make some changes in this bill that will address their concerns, broaden the base of support, and I hope as everybody recognizes that if this bill, if it becomes law, doesn't reduce energy rates in this state it's all but a disaster because we've got to be able to do that, to continue the growth of our industrial base which brings us the jobs that our constituents desperately need.

ACTING PRESIDENT KUHL: Senator Oppenheimer, for a second time.

SENATOR OPPENHEIMER: I guess I do want to question something, if Senator Seward would yield.

ACTING PRESIDENT KUHL: Senator Seward, do you yield for a question from Senator Oppenheimer?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT KUHL: Senator yields.

SENATOR OPPENHEIMER: I mentioned earlier that so much refinancing has taken place. What do you believe the cost savings would be to the small ratepayer now in light of the fact that there has been so much savings?

SENATOR SEWARD: Well, Mr. President, my colleagues, the savings vary, of course, depending on the conditions in each of the service territories of the various utilities and that, quite frankly, is why the legislation is flexible, provides flexibility because we, as a Legislature, in my estimation, cannot legislate and micromanage the restructuring of utilities throughout the state because the conditions vary so greatly

and they also vary as it pertains to the impact of our rate reduction refinancing bill before us today.

You -- current numbers, Senator, you quoted earlier, we estimate through the information provided to us by the PSC there would be a statewide impact of about $163 million annually, and that varies across the state ranging from one percent up to four and a half percent savings in one of the utilities, and I think -- I believe you are serviced in your district by Con Ed, and the indications are that it would be a 1.9 percent annual savings for the residential and small commercial people in your district, in the Con Ed service area.

SENATOR OPPENHEIMER: Right.

SENATOR SEWARD: And this is - I might point out, this is not the cure-all or end-all to rate relief in the state of New York. This is just one piece of the puzzle to bring down rates. The PSC, through their settlement restructuring the industry, they have brought rates down. There are some things that the PSC cannot do that we can do

as a Legislature.

Passing this piece of legislation is one of those things. Further GRT -- gross receipts tax -- relief is another way that this Legislature can bring down rates, and so what we're talking about here is a total package. This is one piece of that package, and I am not going to apologize for any rate relief in the state of New York. After we have seen over the last 10 to 15, 20 years in this state, the debate was not about how low we can bring rates; the debate in this Capitol was how high are rates going to go.

So I think this is a very refreshing change that we're seeing here in this Capitol, and the way that we are dealing with providing electric service to our constituents with an eye toward bringing down rates.

ACTING PRESIDENT KUHL: Senator Oppenheimer.

SENATOR OPPENHEIMER: Thank you, but I think before we step in, that the Tonko bill which says a five percent rate saving should be the limit, the minimum

amount, makes far more sense to me, and I'll be voting no, and I can only tell you the EPL has two smokestacks.

ACTING PRESIDENT KUHL: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I too rise in support of the bill and want to encourage my colleagues to support it. Unlike my colleague, I would be glad to have one percent rate reduction as opposed to zero percent rate reduction and when faced with that alternative, I would certainly take that, but I think we can achieve more, as Senator Seward pointed out.

This is but one element of a comprehensive effort to reduce our rates. More importantly, the concept of stranded costs are identified not only in New York State but are identified by the federal energy regulatory commission and they acknowledge that, in fact, there are prudent stranded costs, so it's a well established concept.

More importantly the concept of securitization is not unique to New York but

is used consistently throughout the nation. As restructuring has been put in place, securitization has been one element of that restructuring. You will find it in Massachusetts; you will find it in Connecticut; you will find it elsewhere in terms of restructuring.

Equally important, we are not the only state that is doing restructuring through a regulatory format. There are a number of other states as well as there are states that simply pass legislation that says we want to reduce rates and restructure administratively go about doing that, so New York's experience is not unique to the nation but, in fact, New York is moving ahead in a very complicated environment.

This can be beneficial to our ratepayers, and the bottom line does accrue not to the stockholders but to the ratepayers and in that negotiation of an approved plan with the PSC, issues such as property tax relief, an impact that was identified and discussed yesterday, can become part of that negotiation as well as a number of other

issues that the Public Service Commission has the jurisdiction to negotiate with those utilities, all of the benefit again accruing to the ratepayers.

So I believe that it's not the role of the Legislature to involve itself, as it has historically, in driving up the rates but to facilitate competition and an environ ment in this state that will provide for the lower rates. Securitization is but one piece of that comprehensive approach, and I would encourage my colleagues to support it.

Thank you.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

SENATOR OPPENHEIMER: If I could explain my vote.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: The Chair recognizes Senator Oppenheimer to

explain her vote. Record the negatives and announce the results.

Senator Oppenheimer.

SENATOR OPPENHEIMER: The other states that were just mentioned are states that have put in place an entire public utility policy. Our state is going ahead with securitization without the entire policy put in place, and it is concerning that stranded costs now will fall to -- if this bill survives the other house, would fall to the ratepayer and not be shared by the shareholder, the stockholder of the company. It would all -- all intangible costs would then fall to the ratepayer. It doesn't seem wise to me, and I'll be voting no.

ACTING PRESIDENT KUHL: Senator Oppenheimer will be recorded in the negative.

Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Just to explain my vote.

I appreciate Senator Oppenheimer's comment. I understand why the EPL is concerned about this, but understand

one thing about this method of refinancing. If we already -- if we didn't regulate the utilities the way we did, then if we had an open marketplace this is a very conventional way to finance lower debt, to take a guaranteed income stream and budget in order to be able to reduce your debt level.

The reason why we're here, the reason why we have to do it, is because we've regulated them for 30, 40, 50 years. We're deregulating them to the extent of allowing them to go out and do a type of financing that any major corporation with a set income stream would do. It's not a revolutionary proposal. It may have the effect, and I know I discussed this with Senator Seward, of what effect it will have on rates. I've talked about it with my home town utility. I'm not necessarily assured that it's going to see any dramatic reduction in rates, but it reduces the cost and it moves these utilities into a lower cost environment in which they can go out and compete with lower rates. They've got the incentive now to go out and sell lower rates.

What this will allow them to do

is to shuck a little bit of that half a century of regulation to allow them to go out and compete. It's not an unconventional financing mechanism in the unregulated private sector.

ACTING PRESIDENT KUHL: Senator Dollinger will be recorded -

SENATOR DOLLINGER: Yes.

ACTING PRESIDENT KUHL: -- in the affirmative. Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar 1040 are Senators Connor, Leichter, Markowitz, Montgomery, Nanula, Onorato, Oppenheimer, Paterson, Rosado, Sampson, Santiago, Smith, Stavisky, Waldon, also Senator Mendez. Ayes 44, nays 15.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Farley, why do you rise?

SENATOR FARLEY: The bill is passed, right. This is on another issue.

Mr. President, we have in the gallery a remarkable group of men, all of whom

are ex-prisoners of war, came over here to visit us. I'd ask them to stand and would you please pay the respects of the New York State Senate to these great Americans who were prisoners of war for our country.

ACTING PRESIDENT KUHL: Thank you, Senator Farley.

On behalf of Senator Bruno, Senator Farley, all the members we welcome you distinguished gentlemen to the chamber. Thank you for your contribution that makes all of this possible for all of us and for all the residents of this state of New York and country. Thank you for your service to God and country, and you're to be commended for spending some time here today.

Thank you, gentlemen. Enjoy your stay.

(Applause)

Senator Present.

SENATOR PRESENT: Mr. President, would you recognize Senator Rath, please.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Rath.

SENATOR RATH: Yes, Mr. President. Good morning. Excuse me for being so very late as I wandered into the chamber. I was at one of the other meetings, Higher Education meeting, and it gives me a great deal of pleasure to introduce to you Tara Neal, who is with you on the platform, Miss Western New York. We're very glad to have you in the chamber with us this afternoon. Tara, I haven't had the pleasure of greeting you personally because of circumstances today, but you're certainly an able delegate and a fine representative from the western door of New York State, as I like to think about it.

Congratulations and good luck. Thank you for being here.

ACTING PRESIDENT KUHL: Senator Maziarz.

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

I want to join with Senator Rath and also Senator Volker who is not in the chamber today in congratulating Tara and wishing her well the end of this month. She's going to be competing in Watertown against

other young ladies of all of your districts and she is going to win, so you are all going to have some sorry constituents out there because like Mary Ellen Stamler, a Miss New York State from my district, Tara, we expect you not only to win in Watertown but also in September to win in Atlantic City.

And so on behalf of Senator Volker and all the members of the Senate, Senator Bruno, I want to congratulate and wish you well as Miss Western New York, where not enough state money is spent as opposed to Long Island, and, as I told you this morning.

I thank you.

ACTING PRESIDENT KUHL: Senator Present.

SENATOR PRESENT: Mr. President, I'd like to announce an immediate meeting of the Rules Committee in Room 332.

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

Room 332.

Senator Present. Senator Present. We have one bill left on the controversial calendar, Calendar Number 929, by Senator Volker. 929, by Senator Volker, would you like to take that up now?

SENATOR PRESENT: We're going to stand at ease. No, stand at ease awaiting the Rules Committee report.

ACTING PRESIDENT KUHL: Senate will stand at ease awaiting the report of the Rules Committee.

(The Senate stood at ease from 12:12 until 12:33 p.m.)

ACTING PRESIDENT KUHL: The Senate will come to order. Ask the members to find their places, staff to find their places.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees. I believe there is a report of the Rules Committee at the desk. I ask that it be read.

ACTING PRESIDENT KUHL: We will

return to the order of reports of standing committees. There is a report of the Rules Committee. I'll ask the Secretary to read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, offers up the following bills directly for third reading:

1347-B, by Senator Kuhl, an act to amend the Public Service Law;

1416-B, by Senator Wright, an act to amend the Tax Law;

2575-B, by Senator Montgomery, an act authorizing the city of New York;

2920, by Senator Leibell, an act to amend the Public Authorities Law;

Senate 4413, by Senator Rath, an act to amend the Surrogate Court Procedure Act;

4556-B, by Senator Johnson and others, an act to amend the Tax Law;

6093, by Senator Alesi, an act to amend the Penal Law;

6524, by Senator DeFrancisco, an act to amend the Highway Law;

6630, by Senator Balboni, an act to amend the Penal Law;

6710, by Senator Marcellino, an act to amend the Criminal Procedure Law;

6726-B, by Senator Marchi, an act to amend the Public Authorities Law;

7041-B, by Senator Libous, an act to amend the Public Authorities Law;

7346, by Senator Hannon, an act to amend Chapter 904 of the Laws of 1984;

7356, by Senator Volker, an act to amend the Tax Law;

7455-A, by Senator Goodman, an act to amend the tax law;

7507, by Senator Spano, an act to amend the Tax Law;

7533, by Senator Volker, an act to amend the Judiciary Law;

7542, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

7546, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

7565, by Senator Bruno, an act to authorize the city of Troy;

7591, by Senator Volker, an act to authorize participation of the county of Erie;

7604, by Senator Trunzo, an act to amend Chapter 41 of the Laws of 1997.

All bills directly for third reading.

ACTING PRESIDENT KUHL: Senator Skelos?

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 report is accepted. All bills ordered directly to third reading.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time could we take up Calendar Number 1179, Senate 6726-B, that was just reported by the Rules Committee.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1179, Senate 6726-B.

THE SECRETARY: Calendar Number 1179, by Senator Marchi, Senate Print 6726-B, an act to amend the Public Authorities Law, in

relation to the powers of the NYSARC, Inc.

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 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please take up Calendar Number 1180, Senate 7041-B, just reported by the Rules Committee.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1180, Senate Print 7041-B.

THE SECRETARY: Calendar 1180, by Senator Libous, Senate Print 7041-B, an act to amend the Public Authorities Law.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please take up Calendar Number 1181, Senate 7455-A, that was reported from the Rules Committee.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1181, Senate 7455-A.

THE SECRETARY: Calendar Number 1181, by Senator Goodman, Senate Print 7455-A, an act to amend the Tax Law.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to

accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1181. All those in favor aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will read the last section.

SENATOR LEICHTER: Excuse me.

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

SENATOR LEICHTER: Yeah. I just saw this bill for the first time in the Rules Committee. Could we just have a brief explanation of this bill.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT KUHL: Bill is laid aside temporarily.

Senator Skelos.

SENATOR SKELOS: 7604.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 1182.

THE SECRETARY: Calendar Number 1182, by Senator Trunzo, Senate Print 7604-A, an act to amend Chapter 41 of the Laws of 1997.

ACTING PRESIDENT KUHL: Senator Skelos.

SENATOR SKELOS: Is there a message of necessity at the desk?

ACTING PRESIDENT KUHL: There is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT KUHL: Motion is to accept the message of necessity on Calendar Number 1182. All those in favor aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. The bill is before the house. Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Senator

Leichter?

SENATOR LEICHTER: Going very fast. Can we have a brief explanation of the bill?

ACTING PRESIDENT KUHL: Senator Trunzo, an explanation of Calendar Number 1182 has been requested by Senator Leichter.

SENATOR TRUNZO: Senator Leichter, this is just merely technical amendments to the early retirement bill that was passed earlier this year. There were wrong dates in the original bill, correcting those dates in various sections of the bill and that's all it does is really technical so that we can implement the early retirement bill that was passed and signed by the Governor.

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: If Senator Trunzo would yield.

Senator, the aim and purpose of the bill is to allow one or more individuals that didn't take advantage of early retirement under the old provision of the bill to do so

now?

SENATOR TRUNZO: That's right.

SENATOR LEICHTER: And how many such individuals are there?

SENATOR TRUNZO: I really don't know. People haven't applied yet. You know, it's statewide; it's all over the state.

SENATOR LEICHTER: This bill.

SENATOR TRUNZO: This bill just finalizes so we can implement the early retirement bill which was Chapter 47 of the Laws of 1998 which was passed earlier this year and signed by the Governor, and these bills had to be changed to fix the dates that weren't in the original bill.

SENATOR LEICHTER: O.K. Just one more question, if you will yield, Senator. So the -- you're telling me the aim and purpose is not to benefit a specifically known individual or individuals.

SENATOR TRUNZO: No, no.

SENATOR LEICHTER: All right.

ACTING PRESIDENT KUHL: 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 59.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please take up Calendar Number 1181 that was laid aside.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 1181, by Senator Goodman, Senate Print 7455-A, an act to amend the Tax Law.

ACTING PRESIDENT KUHL: Message of necessity was previously accepted, Senator Leichter.

Senator Goodman, an explanation of Calendar Number 1181, Senate Print 7455 has been requested by Senator Leichter.

SENATOR GOODMAN: Thank you, Mr. President. I'll put up my dukes and

explain the bill which relates to boxing and wrestling in the state of New York. That's the least -

ACTING PRESIDENT KUHL: Senator Leichter.

SENATOR LEICHTER: If Senator Goodman would yield.

SENATOR GOODMAN: May I just take a moment because, in reading you the explanation, it will refresh my recollection of the explanation I made before.

SENATOR LEICHTER: Sure.

SENATOR GOODMAN: The purpose of this bill is to amend the boxing and wrestling exhibition tax imposed by Article 19 of the Tax Law to reduce the amount of tax, narrow the base on which tax is imposed and set maximum amounts of tax for any match or exhibition.

The bill would provide economic benefits to the state while improving the administration and enforcement of the boxing and wrestling exhibition tax. The reductions realized in the revision of the gross receipts tax should encourage promoters to bring events

into New York. This increase in major events will have a beneficial impact on the economy.

The bill would have a minimal impact on the state's fiscal year 1998-99 and would reduce the state's receipts by approximately $192,000.

The bill would amend the Tax Law to clarify the definition of gross receipts. The bill would further define and clarify sparring or wrestling match or exhibition. Section 2 would amend the Tax Law commencing June 1st, 1998 to impose a tax on gross receipts and ticket sales at the rate of 3 percent, capped at $50,000 for any match or exhibition and on gross receipts from broad casting rights at the rate of 3 percent, also capped at $50,000 for any single match or exhibition. Thus the combined maximum tax per match or exhibition would be $100,000.

A match or exhibition is understood to be a single bout or event or, in the case of a bout or match or fight on a given date, a single date, a given location is one match or exhibition.

Section 3 of the bill would

amend the Tax Law to reflect changes made by the bill, Section 1 and 2.

If the U.S. Supreme Court or New York State Court of Appeals holds that the per match cap on the taxed event is un constitutional, then the cap would be eliminated.

Section 5 of the bill provides that the bill would take effect on June 1st, '98 and would apply to matches and exhibitions held on or after that date, et cetera, et cetera, et cetera.

That's the flavor, and I'm at your disposal, Senator.

SENATOR LEICHTER: Senator, Mr. President, I thank Senator Goodman for that reading.

My question was, I see that you've capped the gross receipts tax on the sales of these tickets at $50,000. That sort of troubled me. Suppose we had a big, big match, Holyfield versus Tyson, with gates of hundreds of millions of dollars. Would you still cap the total amount of the tax in that event at $50,000?

SENATOR GOODMAN: The answer is that I would, for precisely the reason that I referred to in the explanation of the bill, namely, that we wish to give assurance and attract people into New York with these matches and, if they felt that this was an unlimited tax liability that they would have to be subject to, that that would be a discouragement for bringing other matches.

Furthermore, Senator, it's unlikely that gates of the magnitude that you mentioned would not readily occur or would only occur once in a while, but to permit the thing to be without a cap would expand the liability of the promoters and, therefore, deter their entrance into New York.

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

ACTING PRESIDENT KUHL: Senator Leichter, on the bill.

SENATOR LEICHTER: I just think to cap that at $50,000 is to be unreasonably low. Maybe you want to cap it at something. I don't know whether you want to cap it at all, but I certainly don't want to cap it at

this low an amount.

We have events that go on in New York State all the time, whether they're World Series games, where the prices go up, where I'm sure the total amount of receipts is greater. I don't think we've discouraged World Series events to be held in New York State because of that.

I just think that it's an unjustified limitation on taxes that should be paid. We're just decreasing the amount that flows into the public treasury.

ACTING PRESIDENT KUHL: Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

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

THE SECRETARY: Those recorded in the negative on Calendar Number 1181 are Senators Dollinger, Hoffmann and Leichter.

Ayes 56, nays 3.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT KUHL: We do have a couple of motions.

Senator Leichter. Excuse me. Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be recorded in the negative on Calendar Number 2.

ACTING PRESIDENT KUHL: Without objection, hearing no objection, Senator Montgomery will be recorded in the negative on Calendar Number 2.

SENATOR MONTGOMERY: Thank you, Mr. President.

Senator Marcellino, you got a motion. Return to the order of motions and resolutions. Chair recognizes Senator Marcellino.

SENATOR MARCELLINO: Thank you,

Mr. President.

On page number 12, I offer the following amendments to Senator Cook's bill Calendar Number 446, Senate Print Number 899 B, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT KUHL: Amendments to Calendar Number 446 are received and adopted. The bill will retain its place on the Third Reading Calendar.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

On behalf of Senator Spano, I wish to call up his bill, Calendar Number 514, Assembly Print Number 9511-A.

ACTING PRESIDENT KUHL: Secretary will read.

THE SECRETARY: Calendar Number 514, by member of the Assembly Luster, Assembly Print 9511-A, an act to amend the Labor Law.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: I now move

to reconsider the vote by which this Assembly bill was substituted for Print Number 6571-A, on June 2nd.

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

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 59.

ACTING PRESIDENT KUHL: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I now move that the Assembly bill be recommitted to the Committee on Labor and the Senate bill restored to the order of third reading.

ACTING PRESIDENT KUHL: The assembly bill is recommitted; the Senate bill is restored.

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

ACTING PRESIDENT KUHL: The amendments are received and adopted.

SENATOR SKELOS: Any other

substitutions to be made? Any other housekeeping?

SENATOR KUHL: No other housekeeping, Senator, at this time.

SENATOR SKELOS: Mr. President, would you call up Senator Volker's bill, Calendar Number 929.

ACTING PRESIDENT KUHL: Secretary will read Calendar Number 929.

THE SECRETARY: Calendar Number 929, by Senator Volker, Senate Print 395-B, an act to amend the Public Health Law and the Multiple Dwelling Law.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT KUHL: Bill is laid aside for the day at the request of the Majority Leader.

SENATOR SKELOS: No other housekeeping.

ACTING PRESIDENT KUHL: Desk is clean, Senator Skelos.

SENATOR SKELOS: If there is no further business, Mr. President, I move we adjourn until June 8th, Monday, at 3:00 p.m.,

intervening days being legislative days.

ACTING PRESIDENT KUHL: Without objection, the Senate stands adjourned until Monday, June 8th, at 3:00 p.m., intervening days to be legislative days.

(Whereupon at 12:48 p.m., the Senate adjourned.)