NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 26, 1999

11:04 a.m.

REGULAR SESSION

SENATOR PATRICIA K. McGEE, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

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

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT McGEE: In the absence of clergy may we bow our heads in a moment of silence.

(Whereupon a moment of silence was observed.)

ACTING PRESIDENT McGEE: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 25th, the Senate met pursuant to adjournment. The Journal of Monday, May 24th was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Madam President, can we at this time ask for an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT McGEE: There will

be an immediate meeting of the Rules Committee in Room 332.

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 of state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

On behalf of Senator Velella, please remove the sponsor star on Calendar Number 329.

ACTING PRESIDENT McGEE: So ordered. The star is removed.

SENATOR MARCELLINO: Thank you. Madam President, I wish to call up Calendar Number 824, Assembly Print Number 6547.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By member of the Assembly Magee, Assembly Print 6547, an act to amend the Agriculture and Markets Law.

SENATOR MARCELLINO: Madam President, I now move to reconsider the vote by which this Assembly Bill was substituted for Senator McGee's bill, Senate Print Number 3424, on 5/4.

ACTING PRESIDENT McGEE: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

SENATOR MARCELLINO: Madam President, I now move that Assembly Bill Number 6547 be committed to the Committee on Rules and Senator McGee's Senate Bill be restored to the order of the Third Reading Calendar.

ACTING PRESIDENT McGEE: So ordered.

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

ACTING PRESIDENT McGEE: Amendments received.

SENATOR MARCELLINO: Madam President, I move the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause, specifically Senator Alesi's Bill, Senate Number 5692.

ACTING PRESIDENT McGEE: So ordered.

SENATOR MARCELLINO: Thank you, Madam President.

On page number 54, I offer the following amendments to Calendar Number 1046, Senate Print Number 4903, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR MARCELLINO: Thank you, Madam President.

Again, on page number 38, I offer the following amendments to Calendar Number 846, Senate Print Number 4719, and ask that said bill retain its place on the Third

Reading Calendar.

ACTING PRESIDENT McGEE: The amendment is received and the bill will retain its place on the Third Reading Calendar.

SENATOR MARCELLINO: Thank you, Madam President.

On page number 27, I offer the following amendments to Calendar Number 662, Senate Print Number 3868-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT McGEE: The amendment is received and the bill will retain its place on the Third Reading Calendar.

SENATOR MARCELLINO: Thank you, Madam President.

ACTING PRESIDENT McGEE: Senator Bruno.

SENATOR BRUNO: Madam President, are there any substitutions at the desk?

ACTING PRESIDENT McGEE: We have one.

SENATOR BRUNO: Please make the substitution.

ACTING PRESIDENT McGEE: The

Secretary will read.

THE SECRETARY: On page 20, Senator Bruno moves to discharge from the Committee on Rules, Assembly Bill 996-A, and substitute it for the identical Third Reading 528.

ACTING PRESIDENT McGEE: The substitution is ordered.

Senator Bruno.

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Goodman, Legislative Resolution Number 1577, celebrating the life and accomplishments of Leon Hess.

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

(Response of Aye.)

ACTING PRESIDENT McGEE: Opposed

Nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

Senator Bruno.

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: By Senator Gentile, Legislative Resolution Number 1576, honoring New York Mets pitcher John Anthony Franco upon the occasion of his outstanding athletic achievement to become the first left handed reliever to reach 400 saves.

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

(Response of Aye.)

ACTING PRESIDENT McGEE: Opposed nay.

(No response.)

ACTING PRESIDENT McGEE: The resolution is adopted.

Senator Bruno.

SENATOR BRUNO: Madam President, can we ask for an immediate meeting of the Labor Committee in Room 332.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Labor Committee in Room 332.

Senator Bruno.

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

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 246, by Member of the Assembly Englebright, Assembly Print 4995, an act relating to employees effected by the transfer of funds of the Veteran's Education Program.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 436, by Member of the Assembly Eve, Assembly Print 6758, an act to amend Chapter 198 of the Laws of 1978.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 437, by Senator Farley, Senate Print 3532, an act in relation to the calculation of average daily attendance.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 549, by Senator Goodman, Senate Print 2753-B, an act to amend the Penal Law, the Criminal Procedure Law and the Family Court Act.

ACTING PRESIDENT McGEE: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 700, by Senator Lack, Senate Print 3644, an act to amend the Lien Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 756, by Senator Skelos, Senate Print 1609, an act to amend the Correction Law.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT McGEE: The bill is laid aside.

THE SECRETARY: Calendar Number 764, by Senator Meier, Senate Print 4866, an act to amend the Town Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill

is passed.

THE SECRETARY: Calendar Number 775, by Senator Alesi, Senate Print 4554-B, an act to amend the Highway Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: Just to explain my vote, I am going to vote for this bill but I guess I find it still amazing that a highway is going to be renamed which is entirely, entirely within the 54th Senate District and for some reason the person who represents the 54th Senate District isn't even asked to be a sponsor.

I guess that's the way this system works. I find it astounding that it works that way, but I don't know whatever happened to sort of senatorial courtesy or whatever we call it. I have heard it referred to a lot here, but it just doesn't seem to happen.

I will vote in favor. This isn't a

bad idea, but I am astounded that these things happen and I can only consider them frankly as the opposite.

ACTING PRESIDENT McGEE: Senator Dollinger will be recorded in the affirmative.

Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 856, by Senator Skelos, Senate Print 4649-A, an act to amend the Bay Park Library Service Act.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Lack, Senate Print 5062, an act to amend the Estates, Powers and Trust Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as Section 32, Part A, of Chapter 389 of the Laws of 1997.

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 882, by Senator Velella, Senate Print 5544, an act to amend the Judiciary Law and the State Finance Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 974, by Senator Marcellino, Senate Print 5404, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of January.

ACTING PRESIDENT McGEE: Call the roll.

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 975, by Senator Marcellino, Senate Print 5406, an act to amend the Environmental Conservation

Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 976, by Senator Marcellino, Senate Print 5407, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 977, by Senator Marcellino, Senate Print 5408, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT McGEE: The bill is passed.

THE SECRETARY: Calendar Number 989, by the Assembly Committee on Rules, Assembly Print 8225, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 39.

ACTING PRESIDENT McGEE: The bill is passed. Senator Bruno that completes the non-controversial reading of calendar.

SENATOR BRUNO: Can we at this time take up the controversial reading of the calendar?

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 549, by Senator Goodman, Senate Print 2753-B.

SENATOR BRUNO: Lay the bill aside for the day.

ACTING PRESIDENT McGEE: The bill is laid aside for the day.

THE SECRETARY: Calendar Number 756, by Senator Skelos, Senate 1609, an act to amend the Correction Law.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT McGEE: Senator Skelos, an explanation has been requested.

SENATOR SKELOS: Madam President,

This is bill would require that an inmate make a co-pay of $2.00 for each inmate initiated medical or dental visit. An inmate would not be denied care because of lack of funds and it would be optional on the individual counties throughout the State or the City of New York to opt into this program.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, with some of the problems with HMOs and managed care, I have considered having myself imprisoned to get some of my health care services, but short of that, Senator Skelos, don't you think that the cost to the municipality to determine whether or not the defendant is indigent or in position to pay their own medical expenses probably exceeds the system that provides the medical care to them?

SENATOR SKELOS: This question, as you know, was eloquently asked last year by Senator Waldon when this was brought to the floor for a vote, and I responded that -- I believe I responded that the counties or the

city would obviously not opt into it if they felt it would cost them more money, and it passed 56 to five, with Senators Paterson, Leichter, Montgomery, Stavisky and Waldon against the bill.

ACTING PRESIDENT McGEE: Senator Paterson.

SENATOR PATERSON: Madam President, I think Senator Skelos is gaining momentum. I don't think that Senator Leichter is going to vote against the bill this year, but the four of us that did probably will continue.

SENATOR SKELOS: Maybe Senator Schneiderman. I believe it would perhaps continue in that tradition.

SENATOR PATERSON: It is possible. If the Senator would yield for one question?

ACTING PRESIDENT McGEE: Senator Skelos.

SENATOR SKELOS: Yes.

SENATOR PATERSON: Senator, once you have a system in place, and actually I like the work that has been done on the bill,

the idea of giving the municipalities the opportunity to opt out because we have had this a few years and have talked about it at some length and one of the things that Senator Waldon had also somewhat touched upon is, once you have a system where you are investigating, does that in some respect impinge upon the actual standard for which would be determinative of whether or not the individual can actually pay. In other words, once you are actively looking for people who can not afford it, wouldn't it be if there is any finding that there are any resources at all on the part of the defendant that it would then be considered that those resources could be contributed to their own health care?

SENATOR SKELOS: It would be used for them to pay the co-pay of two dollars. And I think there are other bills that have been passed concerning payments for probation costs, which I have passed, payments for medical cost for non indigent prisoners, which we have passed, and unfortunately the other house has not seen fit to follow the lead of the Senate and pass this legislation also.

SENATOR PATERSON: Thank you, Senator.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 756 are Senators Duane, Paterson, Rosato and Santiago. Ayes 36, nays 4.

ACTING PRESIDENT McGEE: The bill is passed.

Also Senator Smith will be recorded in the negative.

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

SENATOR BRUNO: Madam President, can we now return to the reports of standing committees. I believe there is a report at the desk.

ACTING PRESIDENT McGEE: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno from the Committee on Rules reports the following bill directly for third reading; Senate Print 5655, by Senator Bruno, an act to amend the Tax Law, in relation to earned income credit.

ACTING PRESIDENT McGEE: Senator Bruno.

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

ACTING PRESIDENT McGEE: All in favor of accepting the report of the Rules Committee, signify by saying aye.

(Response of Aye.)

ACTING PRESIDENT McGEE: Opposed nay.

(No response.)

ACTING PRESIDENT McGEE: The report is accepted.

Senator Bruno.

SENATOR BRUNO: Can we at this time take up Senate Number 5655.

ACTING PRESIDENT McGEE: The Secretary will read.

THE SECRETARY: Calendar Number 1087, by Senator Bruno, Senate Print 5655, an act to amend the Tax Law, in relation to the earned income credit.

ACTING PRESIDENT McGEE: Read the last section.

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

ACTING PRESIDENT McGEE: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

ACTING PRESIDENT McGEE: Senator Dollinger.

SENATOR DOLLINGER: To explain my vote, Madam President.

ACTING PRESIDENT McGEE: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: Thank you, Madam President.

This bill which I have voted for in several previous versions presented to this chamber would expand the earned income tax credit in New York State from 20 percent to an eventual 30 percent in the year 2001.

I rise today simply to say that this is an idea that found its genesis on this side of the aisle, which has taken about 18 months to make its way the ten foot distance from Senator Connor's chair to Senator Bruno's chair in the chamber. I think that is a good thing. I wish it had been done a year earlier because I think the expansion of the State earned income tax credit does good things for the people of this State. This expansion and the whole concept of the earned income tax credit has been praised by everyone as one of the critical tools to allow people to escape from welfare. And it is only through the expansion of this that we end up with a program that has been described as, in a federal report in the Center for Budget and Policy Priorities, as the single program for moving the largest number of children from poverty.

It is too bad it has taken a year to get that far. I am pleased that it finally has, and my only hope is that having adopted this idea from the Democratic portion of this house, that other ideas from the Democratic

Party with respect to increasing tax cuts and providing a better balance in our tax cuts will be a part of the future of this State, part of the future deliberations of this house, and maybe even part of a budget in New York State.

Thank you, Madam President.

ACTING PRESIDENT McGEE: The Secretary will announce the results.

THE SECRETARY: Ayes 44.

ACTING PRESIDENT McGEE: The bill is passed.

Senator Waldon.

SENATOR WALDON: Thank you, Madam President.

I was out of the chamber when we dealt with Calendar Number 756, I respectfully request unanimous consent to be recorded in the negative.

ACTING PRESIDENT McGEE: Without objection, Senator Waldon will be recorded in the negative.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Madam President. I would like to be recorded in the

negative on Calendar Number 756.

ACTING PRESIDENT McGEE: Without objection, Senator Montgomery will be recorded in the negative.

Senator Bruno.

SENATOR BRUNO: Is there any housekeeping at the desk, Madam President?

ACTING PRESIDENT McGEE: Senator Meier.

SENATOR MEIER: Madam President, on behalf of Senator Skelos, on page number 33, I offer the following amendments to Calendar Number 783, Senate Print Number 5075-A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT McGEE: The amendment is received and the bill will retain its place on the Third Reading Calendar.

Senator Bruno.

SENATOR BRUNO: Madam President, I would like to ask for an immediate, following the conclusion of this session, immediate conference of the Majority in the Conference Room.

And there being no further business

to come before the Senate I would move that we stand adjourned until Tuesday, June 1st at 3:00 p.m., intervening days being legislative days.

I wish you all a safe and happy and pleasant holiday.

ACTING PRESIDENT McGEE: There will be an immediate meeting of the Majority Conference in the Conference Room.

On motion, the Senate stands adjourned until Tuesday, June 1st at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 11:25 a.m., the Senate adjourned.)