NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

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12:29 p.m.

REGULAR SESSION

LIEUTENANT GOVERNOR KATHLEEN C. HOCHUL, President

FRANCIS W. PATIENCE, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

I ask everyone present to please rise and join with me in repeating the Pledge of Allegiance.

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

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

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Thank you.

The reading of the Journal.

THE SECRETARY: In Senate, Monday, June 4th, the Senate met pursuant to adjournment. The Journal of Sunday, June 3rd, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

The Secretary will read.

THE SECRETARY: On page 43, Senator Golden moves to discharge, from the Committee on Civil Service and Pensions, Assembly Bill Number 8006 and substitute it for the identical Senate Bill 5815, Third Reading Calendar 745.

On page 69, Senator Larkin moves to discharge, from the Committee on Corporations, Authorities and Commissions, Assembly Bill Number 10452 and substitute it for the identical Senate Bill 8296, Third Reading Calendar 1250.

On page 78, Senator Tedisco moves to discharge, from the Committee on Finance, Assembly Bill Number 9579A and substitute it for the identical Senate Bill 7657, Third Reading Calendar 1344.

On page 78, Senator Flanagan moves to discharge, from the Committee on Finance, Assembly Bill Number 10130 and substitute it for the identical Senate Bill 8125, Third Reading Calendar 1347.

On page 78, Senator Golden moves to discharge, from the Committee on Finance, Assembly Bill Number 10606 and substitute it for the identical Senate Bill 8498, Third Reading

Calendar 1350.

And on page 81, Senator Flanagan moves to discharge, from the Committee on Finance, Assembly Bill Number 10131 and substitute it for the identical Senate Bill 8126, Third Reading Calendar 1379.

THE PRESIDENT: So ordered.

Messages from the Governor.

The Secretary will read.

THE SECRETARY: The Governor returned without executive approval Senate Bill Number 700B, Veto Number 263, by Senator Carlucci, an act to amend the Education Law in relation to full-day kindergarten.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I move to lay said bill on the table as vetoed by the Governor.

THE PRESIDENT: So ordered.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Madam President, I move to take from the table Senate Bill 700B, by Senator Carlucci, as vetoed by the Governor.

THE PRESIDENT: So ordered.

SENATOR DeFRANCISCO: I now move to override the Governor's veto of said bill.

(Pause.)

THE PRESIDENT: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Yeah, I would request the Secretary to read the bill that we would like to vote on.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Veto Number 263, by Senator Carlucci, Senate Print 700B, an act to amend the Education Law.

THE PRESIDENT: The bill is before the house.

(Cross-talk.)

THE PRESIDENT: Senators --

SENATOR DeFRANCISCO: Yes, it's Senator Carlucci's bill, I'm sure he could give a

wonderful explanation of it.

THE PRESIDENT: Senator Carlucci.

SENATOR CARLUCCI: Yes, thank you, Madam President.

This legislation is pretty simple. What it does is encourages districts to offer full-day kindergarten across the State of New York, something that unfortunately in New York State we don't mandate kindergarten, which is a real shame. And unfortunately, there are still a few districts left in the State of New York that don't offer full-day kindergarten.

The intent of this legislation is to really entice and incentivize districts to offer full-day kindergarten throughout the state. It would expand the kindergarten Transition Aid from currently what's in statute from one year -- in the budget we were able to move forward with three years. What this legislation does is phase it out over a five-year period.

So on the fifth year, instead of getting that 100 percent of Transition Aid, you would have been whittled down to 20 percent. So 80 percent on Year 2; 60 percent, Year 3; 40 percent on Year 4; and then 20 percent on

Year 5.

So we're hopeful that every district in the State of New York will offer full-day kindergarten. So I'd like to see this legislation passed.

Thank you.

THE PRESIDENT: Senator Funke on the question.

SENATOR FUNKE: Thank you, Madam President.

I just want to thank Senator Carlucci for this legislation. Which, by the way, passed both houses unanimously, in the Assembly and the Senate. And to have five years in place for full-day-K is critical for the five school districts without full-day kindergarten right now.

Many are in a unique position, with the 2 percent tax cap, to break through that and have the necessary funding for full-day kindergarten. And we have found out, as Senator Carlucci has pointed out many times, that children are falling behind in the classroom with the new standards.

So I want to again thank Senator

Carlucci for this legislation. And, you know, the districts are having trouble financially catching up, and this will go a long way toward helping that situation. Again, this has passed both houses unanimously, and I'm looking forward to the override here.

Thank you, Madam President.

THE PRESIDENT: The Secretary will read the last section.

(Pause.)

SENATOR DeFRANCISCO: Madam President, I believe it's time for a vote on a veto override. And we just need the direction that the bill become law notwithstanding the veto of the Governor, and then read the last section, so everyone who voted unanimously for this bill can now vote whatever way they want to override the veto. So we just need that direction from the chair.

THE PRESIDENT: Senator DeFrancisco, I'm well aware that you're looking for that direction from the chair, and I'm not prepared to give it at this particular moment.

SENATOR DeFRANCISCO: Well, I'm not quite sure -- under what rule do you rely on to

basically do what you want to do rather than what the rules provide?

THE PRESIDENT: I am prepared to take this up at a later time.

SENATOR DeFRANCISCO: Well, this is the time to take it up, because this bill is before the house. It's a bill of Senator Carlucci, sponsored by bipartisan sponsorship, and everyone voted for it. We would like that to be announced at this point in time. Or, if you choose not to, we could have a member of the Senate take the chair to give that direction, which is required by the rules.

THE PRESIDENT: I understand, Senator. I'm just going to review it one more time before I take the steps you are requesting.

(Pause.)

THE PRESIDENT: Senators, ought the same become law notwithstanding the veto of the Governor?

The Secretary will read the last section.

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

THE PRESIDENT: The Secretary will

call the roll.

(The Secretary called the roll.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 61.

THE PRESIDENT: The motion to override the Governor's veto is carried.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Thank you, Madam President.

Can we now -- I now move to adopt the Resolution Calendar, with the exception of Resolutions 5528 and 5501.

THE PRESIDENT: All in favor of adopting the Resolution Calendar, with the exception of Resolutions 5528 and 5501, signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The Resolution Calendar is adopted.

Mr. Floor Leader.

SENATOR DeFRANCISCO: Yes, Madam President, can we now take up previously adopted

Resolution 5267, by Senator Akshar, read it in its entirety, and call on Senator Akshar to speak.

THE PRESIDENT: The Secretary will read.

SENATOR DeFRANCISCO: Title -- excuse me, title only.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 5267, by Senator Akshar, celebrating the life of Cooper DeLello Busch, a beloved little boy who changed the lives of so many people for the better.

THE PRESIDENT: Senator Akshar.

SENATOR AKSHAR: Madam President, thank you very much for your indulgence.

I rise --

SENATOR FLANAGAN: Madam President, I want it quiet.

If people have conversations, take them outside.

SENATOR AKSHAR: Thank you, Senator Flanagan.

I rise this afternoon because I have

the distinct honor to celebrate the life of a beautiful young boy, 4-year-old Cooper DeLello Busch, a young boy who has certainly changed the lives of many.

I carry a prayer card with me, it has a picture of Cooper on it. And on the back, if you'll indulge me, it says: Sometimes God picks a flower that's still in bloom. Sometimes the flower that is chosen, we feel He's picked too soon. We're at peace knowing, in God's heavenly garden, He has placed the ones we treasure. You have changed our lives forever.

I told many of you several weeks ago that Cooper Busch joined the angels in heaven on May 6th.

I had the honor of getting to know the Busch family over the last year or so. I would describe Cooper to all of you as a young boy who had an infectious smile. He had a resounding laugh and a spirit that touched the souls of so many people.

And Steve, who is with us, Cooper's father, I had a chance to speak to him several times in the waning hours of Cooper's life. And I told you that undoubtedly Cooper changed the

lives of people for the better.

And through Cooper's entire battle, I think you would all agree that our community came together to rally behind Cooper and to rally behind your entire family. And during that time -- this really comes at a really important time for all of us in this room -- we reminded each other what was truly important.

Cooper's mom, Tara, she's with us as well, you're the first one to say that Cooper bravely fought his battle with cancer. He showed astounding strength and he showed fearless courage.

Tara also told us, on the passing of her son, that Cooper would no longer suffer. Tara, for that I am thankful.

But as I said earlier, I want you to please know, all of you that are with us, that the people in our community back at home and the people in this chamber, regardless of our political persuasion, regardless of our disagreement, we all want you to know that we stand with you today and we send our deepest condolences. We walk with you and we grieve with you.

So we can sit here and ask ourselves why. Right? Why would the good Lord take a precious soul? Why did he have to suffer through his battle with cancer? Or we could look through the eyes of 4-year-old Cooper. Cooper would want us to thank the good Lord for allowing us to share in his company. He would want us to thank the good Lord for allowing us to see all of the light and love that he had.

And we should learn from Cooper that no matter the trouble, no matter the adversity we may face, we have the ability to choose happiness. We have the ability to smile, to love, to laugh. At the end of the day, that's exactly what Cooper did during his four years on this earth.

So Cooper, I say this. As you play in heaven and you look down on us today -- your mom and your dad and your grandma, your brother, your little sister Hope, who's sleeping over here -- I want to say thank you for personally helping me and reminding me what's truly important in life. And who would have thought that a beautiful lesson like that would have come from a 4-year-old boy.

So to Steve, to Tara, to Cole, to Hope, to Maria, the rest of your family, wherever they may be throughout this state or throughout this nation, on behalf of everybody in this room, sitting and standing, I send my deepest condolences. And I pray that God will continue to give you the strength that you need to deal with the loss of your son.

And as I said several weeks ago, Cooper, fly as high as you possibly can, because you are a beautiful angel in heaven now.

Madam President, thank you.

THE PRESIDENT: Thank you, Senator. And thank you for those heartwarming remarks.

And truly to the family, on behalf of the people of the State of New York, we thank you for having the gift of a child whose story will now inspire other families who have to cope with similar tragedies.

So I want to thank you for having the courage to be here today. As a parent, I know it must be very difficult. But little Hope will grow up knowing her brother's story of how he touched the lives of so many. Thank you very much.

Floor Leader.

SENATOR DeFRANCISCO: Madam President, this resolution is open for cosponsorship. If anyone would like to cosponsor, they should notify the desk.

(Standing ovation.)

THE PRESIDENT: The resolution is open for cosponsorship. If you'd like to be a cosponsor, please notify the desk.

Mr. Floor Leader.

SENATOR DeFRANCISCO: Madam President, could you please take up Resolution 5528, by Senator Griffo, have it read in its entirety, and call on Senator Griffo to speak.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Legislative Resolution Number 5528, by Senator Griffo, commemorating the 25th Anniversary of the Gaming Compact between the Oneida Indian Nation and the State of New York.

"WHEREAS, Oneida Indian Nation sovereignty is enshrined in state and federal law and retains inalienable rights and privileges of

self-governance; and

"WHEREAS, Oneida Indian Nation was America's first ally and the first Indian Nation to fight alongside American soldiers in the Revolutionary War, and its members have served in the armed forces in every war since; and

"WHEREAS, In 1993, New York State and Oneida Indian Nation created history by signing a gaming compact in hopes of creating a successful economic model for the Oneida people and for upstate New Yorkers; and

"WHEREAS, Former New York Governor Mario Cuomo defined Oneida Indian Nation as a 'rare model of economic success and collaboration, during an era of economic turmoil and divisiveness'; and

"WHEREAS, Oneida Indian Nation has diligently worked to support a culture of civility and respect that has led to state-tribal relations that are a national model in Indian Country and that led to the historic 2013 settlement between the tribe, Oneida County, Madison County, and New York State; and

"WHEREAS, The 2013 settlement ended all legal disputes between the Oneida Nation,

state, and local governments, and has created a new era of collaboration and shared prosperity for the Mohawk Valley; and

"WHEREAS, Oneida Indian Nation enterprises have generated critical revenues for infrastructure, education, healthcare, social services and other public priorities, both for the Oneida people and for surrounding communities in Central New York; and

"WHEREAS, Oneida Indian Nation's eternal commitment to its sacred homelands has been illustrated by its unwavering commitment to reinvesting resources in the local economy and local businesses, rather than siphoning resources out of New York State; and

"WHEREAS, Oneida Indian Nation enterprises were projected in 1993 to create 1,400 jobs but have surpassed those projections, now directly creating 4,500 jobs and supporting thousands more throughout the region; and

"WHEREAS, Oneida Indian Nation is now the largest employer in Oneida and Madison County, and the fifth largest employer in the 16 counties that make up Central New York; and

"WHEREAS, Oneida Indian Nation is a

national leader in Indian Country, and has used its prominence to promote economic development initiatives, fight for stronger civil rights and environmental protections, speak out against those who seek to demonize people of color, and work with New York legislators to unanimously pass a resolution in 2014 calling for the end of Native-American-themed mascots; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to commemorate the 25th Anniversary of the Gaming Compact between the Oneida Indian Nation and the State of New York; and be it further

"RESOLVED, That this Legislative Body pauses further to encourage New Yorkers to look to the Oneida Indian Nation's deportment, business and tribal government success and record of community investment as an exemplary model for other businesses and communities to follow; and be it further

"RESOLVED, That a copy of this resolution, suitably engrossed, be transmitted to the Oneida Indian Nation."

THE PRESIDENT: Senator Griffo.

SENATOR GRIFFO: Thank you, Madam President.

I'd like to say it's my pleasure today to introduce some of the guests we have here from the Oneida Nation.

I first would like to introduce the Oneida Nation representative and CEO of Nation Enterprises, Mr. Ray Halbritter. Also with him we have Oneida Nation Councilmembers Chuck Fougnier, of the Wolf Clan; Brian Patterson, of the Bear Clan; and Dale Rood, of the Turtle Clan.

I want to thank them for being here today as we have this resolution, which commemorates the 25th anniversary of the Oneida Nation's Gaming Compact with the State of New York.

The Oneida Nation original homelands consisted of over 6 million -- 6 million -- acres that stretched from the St. Lawrence River to the Susquehanna River, and it has had a rich history throughout our country's history and our continent's history. Nation villages have thrived throughout Oneida and Madison County.

In 1794, after victory over the British and the many hardships that the Oneidas

had endured, thanks to President Washington they would sign the Treaty of Canandaigua, which recognized the Oneidas as a sovereign entity. And that treaty guaranteed over 300,000 acres.

And they faced many charges throughout the years. But as a result of determination and commitment to their homeland and to Central New York, and through the leadership of Mr. Halbritter and the clan members here today, they have made significant accomplishments and successes over the many years that we have talked about through the resolution.

I just want to be thankful and express our gratitude for their reinvestment, for their commitment to Central New York. Over 4600 people employed at a time of fiscal challenge. We were able to look to a partnership with the Oneidas in creating jobs, not only in the Turning Stone Casino and the Yellow Brick Road and the Maple Leaf Market chains that they have, but in all other areas, where they have not only been extraordinary employers, but also very philanthropic, very involved in all aspects of our community, trying to make a difference and bettering the quality of life.

So for that strong commitment to not only its members but to the region and to the state as a whole for that continuing reinvestment in Central New York, in the State of New York, today we are proud to have you all here to acknowledge that success, to acknowledge your concern, your commitment to not only the Oneidas but to all of the area that you call home.

We appreciate your leadership, your philanthropic concern for the communities that surround you, and for your continued commitment, and we look forward to many more years of partnership. So congratulations.

Madam President, I would ask that you extend the courtesies and the privileges of the house to the guests from the Oneidas here today.

THE PRESIDENT: Senator Valesky.

SENATOR VALESKY: Thank you, Madam President.

Senator Griffo, thank you for bringing this resolution to the floor today. Senator Flanagan, thank you as well for allowing us to have a few moments, as we begin our deliberations, to congratulate our friends from

Central New York.

Oneida Nation leader Ray Halbritter, members of the Men's Council, thank you for being here. Thank you for the tremendous leadership and work that you do back home in Central New York.

I want to add some comments to those of Senator Griffo's. Not only do we acknowledge the 25th anniversary of the signing of the Gaming Compact, but this year actually marks the fifth anniversary of the signing of in many ways an even more important compact -- not only the signing, but the ratification by this State Legislature. Five years ago, under the leadership of Mr. Halbritter, Governor Cuomo, the county executive in Oneida County and the chairman of the Board of Supervisors in Madison County coming together to negotiate a comprehensive end to some extremely divisive issues in both Madison and Oneida counties that had extended for far too long.

And if not for the visionary leadership of those individuals that I just acknowledged, we may not be here in this position that we are today. And we certainly would not

have the kind of economic success and true spirit of partnership that we now have back home in Central New York.

So congratulations not only to 25 years but also to five years on the signing of that compact.

Thank you.

THE PRESIDENT: Thank you, Senator.

Senator Kennedy.

SENATOR KENNEDY: Thank you, Madam President.

I too rise to congratulate the Oneida Nation on 25 years this anniversary. And it's something that we should celebrate. A great welcome to you to this auspicious chamber, Ray Halbritter as leader, councilors, and others. I want to congratulate Senator Griffo for bringing this to the floor.

This is something that we should all take to heart, the Oneida Nation, the tremendous relationship that they have had and continue to have with the great State of New York, as one of six members of the original Iroquois Nation.

Out in Western New York and Buffalo, we often celebrate the relationship we have with

the Seneca Nation. I live on the original Buffalo Creek territory. We have a history not only in Western New York and in Central New York and across this great state, but across this nation, that is not always a good history, that quite frankly has been built in blood and in tears in many instances.

We stand on the shoulders of those that have come before us in our own ethnicities. But all of us are here in this great United States of America following the original inhabitants, the original natives. And it's absolutely incumbent and imperative that we take that into consideration in the decisions that we make here in this chamber, across the hall, and as a state government.

We thank you for your continued work with our state government, with our national leaders as well. I know that you have taken it upon you, Mr. Halbritter, as a leader in this nation to eradicate the racism that has plagued us as a nation. And you have made great strides, but our work continues. We are with you in that fight. We look forward to our continued work together.

Today we celebrate 25 years. Here's to 25 more, seven generations ahead of us, and many, many more years, decades, centuries and generations to come of peace, tranquillity, partnership and work together as we forge our future.

Thank you, Madam President.

THE PRESIDENT: Thank you, Senator.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, thank you, Madam President.

I've known these gentlemen longer than the casino was being thought of. And back in those days, it was -- they were not good days for a lot of people in Central New York. Jobs were down, people were trying to figure out how to feed their families with decent jobs and economic activity. And Ray Halbritter, the leader, and these fine gentlemen that I've known forever took a risk, an incredible risk, and showed the initiative to make something amazing happen, which we all are now benefiting from.

And each year there's something else. It's not like they're just standing still and hoping that the world will still be the same.

They're making changes, they're making advancements in order to make sure that this economic engine is going to continue as long as we're around, anyway, and probably many, many years thereafter.

So I rise and congratulate the Oneida Nation, Leader Halbritter, and Brian Patterson and Chuck Fougnier and Dale Rood, all of you for what you've done and all the members of the board as well as the Oneida Nation.

So congratulations. Many, many more great years to come.

THE PRESIDENT: Thank you, Senator.

I also want to extend my congratulations on behalf of the people of the State of New York for a spectacular 25 years of collaboration.

But of course this builds on a long, long history as the precursors to many of us coming to this country, and our ancestors. So thank you for being an important part of New York State's story.

The question is on the resolution. All those in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed?

(No response.)

THE PRESIDENT: The resolution is adopted.

Mr. Floor Leader.

SENATOR DeFRANCISCO: Yes, this resolution also is open for cosponsorship. If you wish to cosponsor, please notify the desk.

THE PRESIDENT: The resolution is opened up for cosponsorship. So if you'd like to be a cosponsor, please notify the desk.

(Standing ovation.)

THE PRESIDENT: Mr. Floor Leader.

SENATOR DeFRANCISCO: Would you please now recognize Senator Sepúlveda for an introduction.

THE PRESIDENT: Senator Sepúlveda.

SENATOR SEPÚLVEDA: Thank you, Madam Speaker, for allowing me the time to make this introduction.

Next week myself, Senator Savino, Senator Griffo, Senator Alcantara will be proffering a resolution celebrating and commemorating Russian Heritage Month.

Today we are joined by several

members of the Russian American community. We have with us Marina Kovalyov, who is the president and cofounder of the Russian American Foundation, which is an organization whose goal is to build a bridge between the United States and former Soviet countries through art, cultural initiatives, and youth programming.

Today we are also joined by former soldiers who fought alongside our Allied forces in World War II. They're up there, standing up there. Please, gentlemen.

We're also joined by Ekaterina Kotrikadze, who's the editor-in-chief of Russian TV. Irina Olevsky, who's an attorney, founder and manager of her own firm. Yerlan Shakibayev, who's the founder of Humans Net, Inc. Michael Belogorodsky, who's the past president of the Russian American Officers Association. And Evgeny Zhuravlev, who's the CEO and founder of L'Adresse American Bistro.

I want to thank you all for being present today.

And I ask you, Madam Speaker, to offer them the cordialities of the house.

THE PRESIDENT: Thank you, Senator.

We do welcome you very much to the house and hope you take a message of peace and friendship back.

And I want to at this time call on the house to recognize them.

(Standing ovation.)

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes, if we can now go to the active list for today and call up Calendar Number 662.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 662, by Senator Murphy, Senate Print 299, an act to amend the Agriculture and Markets Law.

SENATOR KLEIN: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

SENATOR DeFRANCISCO: Can we now take up Calendar 702.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number

702, by Senator Boyle, Senate Print 594, an act to amend the Penal Law.

SENATOR KLEIN: Lay it aside, please.

THE PRESIDENT: The bill is laid aside.

SENATOR DeFRANCISCO: Can we now take up the controversial reading of those two bills that were just laid aside, 662 and 702.

THE PRESIDENT: The Secretary will ring the bell.

The Secretary will read.

THE SECRETARY: Calendar Number 662, by Senator Murphy, Senate Print 299, an act to amend the Agriculture and Markets Law.

SENATOR DeFRANCISCO: Madam President --

THE PRESIDENT: Senator Klein, why do you rise?

SENATOR KLEIN: Madam President, I believe there's an amendment at the desk. I ask that the reading of the amendment be waived and that Senator Krueger be heard on the said amendment.

THE PRESIDENT: Senator Krueger to

be heard on the amendment.

SENATOR DeFRANCISCO: Excuse me, Madam President.

THE PRESIDENT: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: We accept the amendment.

(Laughter.)

THE PRESIDENT: So ordered. The amendment is agreed to. The bill-in-chief is now before the house.

So ordered. The bill is high, due to the bill being amended on the Third Reading Calendar, and it will be laid aside for the day.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Let me clarify. The bill has been amended, it's laid aside since it's high, and can we go on to Bill Number 702.

THE PRESIDENT: Senator Krueger, why do you rise?

SENATOR KRUEGER: Thank you, Madam President.

I was hoping to speak on the amendment, explaining why I'm so glad that the

amendment has been accepted. May I speak on the amendment?

SENATOR DeFRANCISCO: Point of order, Madam President.

THE PRESIDENT: Senator DeFrancisco, why do you rise?

SENATOR DeFRANCISCO: Yes, although all of us are waiting to hear such an explanation, if the -- this is Rule 9, Section 4A: If the sponsor accepts the amendment, such amended bill shall be ordered amended without a vote, debate or explanation, and such bill shall retain its place on the Third Reading Calendar.

So because of that, there's no -- the rules preclude an explanation at this time.

THE PRESIDENT: Senator DeFrancisco, thank you.

Senator Klein, why do you rise?

SENATOR KLEIN: Madam President, you did call on Senator Krueger to speak on the amendment. Even though it was adopted, Senator Krueger still has an opportunity to be called upon to speak on the amendment.

SENATOR DeFRANCISCO: Madam

President.

THE PRESIDENT: Senator DeFrancisco.

SENATOR DeFRANCISCO: I don't know where that rule is, because it's not in the rules of the State Senate. The rule in the State Senate is present exactly the way I read it. You can have time to read it. But simply because someone was recognized when it was not proper does not mean that the rules are to be ignored.

SENATOR KLEIN: Madam President, you are the chair. You have the ability to call on anyone you want to speak.

THE PRESIDENT: That is correct, Senator Klein. I had called on Senator Krueger to speak. I gave you a courtesy, but that was not to preclude the Senator from speaking. And if you wish to appeal the ruling of the chair, you may.

SENATOR DeFRANCISCO: Madam President, first of all, the -- can you tell us what rule you're relying on that you could just ignore the rules at this point in time?

THE PRESIDENT: The fact that I had, prior to recognizing you, had recognized

Senator Krueger to address this body. I think that's a courtesy that should be extended to the Senator.

SENATOR DeFRANCISCO: Well, that's fine, but it violates the rules. And I believe that it's improper to do what you're suggesting here, and it may have consequences on further things that might come up at this point in time.

If we're going to violate the rules, we'll have to get a ruling as to whether that rules violation is legitimate or not, is legal or not, and that will affect what else we're planning on doing today to be productive in the State of New York, in the State Senate.

THE PRESIDENT: Rule 4, Section 1 allows the presiding officer to determine what is in order, and I had declared her comments in order, and we'll proceed.

And if you wish to appeal, you may do so, Senator.

SENATOR DeFRANCISCO: One moment, please.

All right, go ahead. And just to make a point, we're objecting. And it will be decided later on by another authority.

THE PRESIDENT: Thank you, Senator.

Senator Krueger, you may speak.

Senator Flanagan, why do you rise?

SENATOR FLANAGAN: I just want to make sure we're -- do you have a a copy of the rules of the Senate up there?

SENATOR RIVERA: Point of order, Madam President. I believe that Senator Krueger had the floor, if you recognized her.

THE PRESIDENT: If you're asking whether or not I have a copy of the rules, Senator, the answer is yes.

Senator Krueger.

SENATOR FLANAGAN: Madam President, I'm still speaking. Point of order.

THE PRESIDENT: Senator Flanagan, Senator Krueger was speaking.

SENATOR FLANAGAN: Madam President, you recognized me. I have the floor and am raising a point of order.

Senator DeFrancisco a moment ago recognized with you that Senator Krueger will be speaking. At this moment I am speaking by virtue of the fact that you recognized me and I'm raising a legitimate point of order.

THE PRESIDENT: Senator --

SENATOR FLANAGAN: May I continue?

THE PRESIDENT: You may continue. I just want to establish that I did answer your question. You asked if I had a copy of the rules before us. That, to me, transitioned the conversation back to the Senator --

SENATOR FLANAGAN: Well, it may have transitioned it in your mind, but I still have the floor and I have a further comment to make.

THE PRESIDENT: All right. You may continue to speak, Senator --

SENATOR FLANAGAN: Okay.

THE PRESIDENT: -- followed by Senator Krueger.

SENATOR FLANAGAN: You may interpret this as being rhetorical; it's not. I'm asking you a question. I have here Rule 9, Section 4A. If the sponsor accepts the amendment, such amended bill shall be ordered amended without a vote, debate or explanation, and such bill shall retain its place on the Third Reading Calendar.

I would ask you to read Rule 9,

Section 4A, because I want to make sure that we have the same rules before us.

THE PRESIDENT: I do see that, Senator. And I also want to point out that Rule 4, Section 1 allows me to recognize individuals on the floor. And I had done that.

So I think in the interests of moving this body forward, which is what the people of the State of New York are looking for us to continue working together, let us give the Senator the opportunity to continue speaking before I cut her off to recognize Senator DeFrancisco. Then we can move on. I think this will be resolved very amicably, and that is our intention here.

SENATOR FLANAGAN: Yeah, I think -- I would make two points. Number one, I do actually want to hear what you have to say. So whoever is controlling the mike, Madam President, if you would either get closer or raise the volume, because I think a number of our members are having some difficulty hearing you.

Number two, I would remind you that the sponsor controls the bill. And the bill is high, so it is out of order for these comments to

be taking place. And a specific rule trumps a general rule in the rules of the Senate.

THE PRESIDENT: Thank you, Senator.

Senator Krueger.

SENATOR KRUEGER: Thank you, Madam President.

For the record, I'm not speaking on a vote, I'm not asking for a debate, and I'm not actually commenting. I am speaking on the -- excuse me, the amendment that has been accepted. And I appreciate the respect you've shown me to allow me to speak.

Current law allows for criminal prosecution of women who have abortions and doctors who provide them. This amendment, which has been accepted -- thank you very much, sponsor --

SENATOR DeFRANCISCO: Madam President. Madam President.

THE PRESIDENT: Senator Krueger -- Senator DeFrancisco.

SENATOR DeFRANCISCO: Point of order.

If this isn't speaking about the bill and the amendment, I don't know what it is.

The whole -- what's the purpose of it? The purpose of speaking on an amendment is to be in a position to argue that the amendment is appropriate. We agreed to the amendment. So if it's agreed to, the bill is automatically high. In accordance to the rules of this Senate that have been here a lot longer than we have been, this is inappropriate to start a discussion about the bill which has already been amended and is now high.

THE PRESIDENT: Senator, I truly appreciate where you're coming from.

But from the point of view of the chair, the presiding officer of the Senate, I had recognized Senator Krueger to be able to speak on this issue. I deferred her time to allow you the courtesy to speak. And I'm simply asking that you recognize her the opportunity to conclude her remarks, and then we can finish the business of the people, which is what everyone in this state would like to see occur, Senator.

SENATOR DeFRANCISCO: You did not defer her time, you recognized me to make an objection based upon the rules. That wasn't deferring her time. It gave me, as floor leader,

the opportunity to explain why what you were about to do violated the rules.

So I'm not quite sure what the benefit is to you, to this chamber of going forward and having a discussion on the bill when it's already been amended and the object of the amendment has been accomplished. Why allow a clear violation of the rules in this house for courtesy purposes or whatever rule you came up with?

That's not the rule of this house. Otherwise, we can get up and talk about anything we want on another bill, whether it's germane, whether the bill is high. Every high bill that comes up here that can't be voted on and can't be debated, you're going to allow us the courtesy of just talking about them because you want to be courteous? That's wrong. It's against the rules.

And I'm giving you one last opportunity to --

SENATOR KLEIN: Madam President.

SENATOR DeFRANCISCO: -- do what you're supposed to do as the presiding officer.

SENATOR KLEIN: Madam President --

THE PRESIDENT: Thank you, Senator.

Senator Klein.

SENATOR KLEIN: -- you cited Rule Number 4, Section 1, which certainly gives you the ability to call on anyone you choose to speak. Senator DeFrancisco should have made a motion denying you that opportunity in order to stop Senator Krueger from explaining her amendment which is before us today.

So I just request that Senator Krueger be allowed to continue to explain her amendment.

THE PRESIDENT: Thank you, Senator.

Senator Krueger, please continue.

SENATOR GRIFFO: Point of order, Madam President.

THE PRESIDENT: Senator Griffo.

SENATOR GRIFFO: In accordance with Section 1 -- or Rule 4, Section 1, you have to assign a reason for the decision that you're making. That decision has to be made upon rules that exist. And on Rule 9, it is clear. Senator DeFrancisco has articulated very eloquently and clearly to you what Section 9 {sic} states. And you're in violation of Section 9. So how can you

use Section 1 where you have to give a reasoning as to a ruling of the chair in defiance of a rule that exists? You can't pick and choose the rules that you want to enforce in this chamber.

Four, Section 9 -- Article -- Rule 9 gives you specific requirements as to handling legislation, even though you have the rule of the presiding officer where you can give a reason. Your reason cannot be detrimental to the rules of the Senate.

THE PRESIDENT: Senator, my reading of Section 4 is not as limited as yours. But I certainly encourage any member who wishes to challenge the ruing of the chair to do so. And you can appeal my decision at any time. I will accord you that ability.

SENATOR KLEIN: Madam President, again, I think I stated it correctly. If the Majority wants to prevent you from calling on anyone, according to the section, they should make a motion to prevent that. But that said -- and if they choose not to do that, you should let Senator Krueger proceed and speak on the said amendment.

THE PRESIDENT: Senator

DeFrancisco, do you have a motion to make?

SENATOR DeFRANCISCO: Yes, I have a motion. I move to withdraw our approval of the amendment and lay this bill aside.

THE PRESIDENT: Senator, the bill is laid aside.

SENATOR DeFRANCISCO: Now I call an immediate meeting of the Rules Committee.

THE PRESIDENT: There will be an immediate meeting of the Rules Committee in Room 332 of the New York State Capitol.

The Senate stands at ease.

(Whereupon, the Senate stood at ease at 1:17 p.m.)

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

ACTING PRESIDENT GRIFFO: The Senate will come to order.

SENATOR FLANAGAN: Mr. President, thank you.

I know the Democrats are in conference. There will be an immediate Republican conference in Room 332, and the Senate will continue to stand at ease.

Thank you.

ACTING PRESIDENT GRIFFO: The Democrat Conference is in conference, and there is an immediate Republican conference in Room 332.

The Senate will continue to stand at ease.

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

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

ACTING PRESIDENT GRIFFO: The Senate will come to order.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I move to adjourn until Wednesday, June 6th, at 1:00 p.m.

SENATOR DeFRANCISCO: The Senate stands adjourned until Wednesday, June 6th, at 1:00 p.m.

SENATOR DeFRANCISCO: There are two committee meetings -- just an announcement -- two committee -- one committee meeting. Just the Finance Committee is meeting in Room 332 immediately following session.

ACTING PRESIDENT GRIFFO: The Finance Committee will meet immediately in

Room 332.

The Senate stands adjourned until tomorrow, June 6th, at 1:00 p.m.

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