

Report to the East Side and Midtown from **State Senator Liz Krueger**

Dear New Yorker:

After months of short legislative days and a trickle of action on bills, the legislative leaders once again packed about half of the work for the entire session into the final two weeks of June. This approach often results in important issues getting lost in the shuffle and undermines the chance for careful consideration of what is passed—while camouflaging the kind of backroom special-interest deals that can only be passed in the rush to adjournment.

Perhaps the single best reform we could implement in the Capitol would be to require more work from January to May, when all members have had enough sleep and enough time to actually read everything we vote on—rather than leaving everything to the last minute like a bunch of college seniors.

This year's end-of-session flurry of activity was a mixed bag: important accomplishments, some promises of action yet to be fulfilled, and many issues completely ignored.

Here's the rundown.



lkruieger@senate.state.ny.us

Mental health parity: promises to keep

On the last day of session, the Senate's Republican Majority Leader announced an agreement with the Assembly on "Timothy's Law," which would require health insurance companies to cover mental illness comparable to that provided for physical illness.

Named for Timothy O'Clair, a mentally ill 12-year-old from Schenectady who committed suicide after his family was denied coverage for his illness, Timothy's Law had passed the Assembly for the last four years but had been blocked in the Senate. (*The New York Times* documented Timothy's father's dedication to lobbying for passage of the bill in a July 4, 2006, article, worth looking up if you're interested in a case study on Albany dysfunction.) According to our City's community health survey, 41% of New York City residents who could benefit from mental health treatment do not seek it because of prohibitive costs, making this the largest of all barriers to treatment—a barrier to point by that wouldn't exist if New York joined the 35 other states that already have an insurance parity law in place.

You'd think "announcing an agreement" would mean actual passage of a bill, but that isn't the way things work in Albany. Because the Senate and Assembly didn't reach 'agreement' until the last day of session, under legislative rules a document called a "message of necessity" must be issued by the Governor to allow the bill to be considered immediately. For whatever reason Governor Pataki did not do that, so as a result the legislation has not yet passed, let alone been signed into law by the Governor.

The Majority Leader has indicated that he will bring the bill to the floor for a vote when the Senate comes back for a special session in September, and I'll be working to make sure he keeps this promise.

Medicaid I: funding 'restorations'

The legislature and the Governor reached an important agreement restoring \$632 million that the Governor had vetoed from the legislature's budget earlier this year.

It's important because of a broader battle between the two branches over who gets final say on spending—the legislative or the executive arms of state government.

The Governor had argued that the appropriation was unconstitutional, and therefore had indicated he would not allocate the funds despite the fact that the legislature overrode his vetoes.

The final agreement between the Governor and the legislature included restoration of over \$260 million in funding for hospitals and nursing homes, a long overdue increase in the Medicaid reimbursement rate for emergency services, and new performance-based incentives for nursing homes. In addition, the Medicaid wrap-around for Medicare prescription drug coverage was extended until January, 2007, and the ability of spouses to protect assets when a partner enters a nursing home was restored. These restorations were particularly important in preventing any further declines in health care in New York State.

Medicaid II: Inspector General

The legislature passed a bill creating an Inspector General's office to investigate Medicaid fraud. While far from perfect, this bill should improve monitoring of the Medicaid program and save the State millions of dollars in reimbursements for fraudulent Medicaid claims by medical providers.

The New York Times has been crucial in exposing Albany's flaws in Medicaid administration, and their series of stories certainly helped shame the legislature into passing this reform. (Their coverage is still available at www.nytimes.com/medicaid.)

The Inspector General legislation emerged out of a rare bird in Albany: a joint conference committee of the Senate and Assembly. Unfortunately, at present conference committees remain the exception rather than the rule. (Which is why I've proposed legislation to require standing conference committees—S.2293).

Here's hoping the success of the Medicaid fraud conference committee is the beacon that helps guide my bill to passage.

Statute of Limitations on sexual assault

As reported in my last newsletter a highlight of this session was elimination of the five-year statute of limitations on prosecutions of rape. (I first introduced similar legislation just over four years ago.)

This legislation had been long-delayed because the Senate and Assembly disagreed over whether to eliminate both the Criminal and Civil Statutes of Limitations — the Senate Majority had resisted eliminating the Civil Statute.

The legislation also opens a five-year window for pursuing civil liability. Passing this bill is a leap forward in fighting sexual assault, and will ensure that rapists who are identified through DNA evidence or testimony from survivors after five years can still be prosecuted—and that survivors can receive both justice and compensation for these assaults.

DNA database established

In another passage which will affect sexual assault survivors, the Assembly and Senate also passed legislation expanding the state DNA database to include all convicted felons as well as a number of serious misdemeanors. While this legislation has the potential to help identify repeat offenders, it also has major problems.

The bill includes no additional money for DNA processing, and the state already has a significant backlog of DNA samples. This legislation will result in tens of thousands of additional DNA kits needing processing and the program can only be effective in identifying suspects if these kits do not sit for years awaiting action.

A potential larger problem with the bill was the failure to include an "Innocence Project," as the Assembly proposed. The need for such a project was dramatized in July with the release of an innocent man who had served 22 years for a rape he did not commit. He was freed after police finally found and processed the rape kit for the case, which they had claimed was lost 12 years ago when the prisoner first asked that it be tested. DNA from the kit conclusively exonerated the man.

This case demonstrates that just as it is critical to use DNA to identify the guilty, we should also use this technology to free the innocent. Justice works both ways.

Special Housing Units for mentally ill prisoners

A final major step forward in criminal justice legislation was the passage of S.2207, which bans the use of so-called “Special Housing Units” (SHUs) for incarcerating mentally ill prisoners. Prisoners are confined in windowless SHUs for 23 hours out of every day, completely isolated from other prisoners. This treatment is particularly dangerous to those already suffering from mental illness. Over 50% of suicides in the state prison system are committed by prisoners confined to SHUs. The legislation also provides for new treatment requirements for prisoners diagnosed with serious mental illness.

Environmental Protection Fund

Another major success was an agreement between the Legislature and the Governor on a \$225 million appropriation for the Environmental Protection Fund. This represented a \$25 million increase over the original appropriation, which the Governor had vetoed on constitutional grounds (as he did with Medicaid funding). Among the programs funded are local waterfront revitalization, parks, water quality improvement, and open space protection. This funding is critical to the continued protection of New York’s vital environmental resources and improvement and expansion of parks and open space.

The unfinished agenda

While many of these accomplishments were significant, as always the list of what we *didn’t* do is much longer:

Campaign finance reform: Once again, the Legislature failed to advance any campaign finance reform at all. Since I entered the Legislature I have carried a bill that would substantially limit contributions to and expenditures by candidates and establish public financing for those who participate. Limiting the influence of money over our political process is critical to building a more equitable and responsive government.

Redistricting reform: Changing how legislative boundaries are drawn goes hand in hand with campaign finance reform in creating a more level playing field for political candidates. The legislature now draws their own boundaries, the main reason why incumbents are re-elected at rates of over 98%. Other states have established independent redistricting commissions to draw district lines that are compact and coherent and take the politics out of redistricting. New York should do the same.

Fair school funding: The Campaign for Fiscal Equity decision by the State Court of Appeals, which would increase funding of city schools by altering school funding formulas, remained unaddressed, even as the Legislature and Governor agreed to provide an additional \$11 billion in funding for school construction over the next five years. It’s unconscionable that the leadership continues to simply ignore court orders to do our duty to meet the basic needs of schoolchildren.



In June, I helped present the Senate Minority’s Housing Plan at City Hall, which includes repeal of the Urstadt Law.

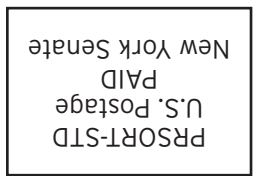
Restoring local control over rent laws: Despite the wishes of the City Council, the State Senate refused to repeal the Urstadt Law, which denies New York City control over its own rent laws. The Senate Majority frequently stresses the importance of the principle of home rule, but has refused to apply it to New York City. We deserve the same ability to control

our housing policy as other localities and I’ll continue to push for Urstadt repeal.

Animal welfare: The Senate did not act on a number of key animal welfare bills, including a ban on “canned” hunting (hunting of animals in enclosed areas) and my own “No Downed Animals” bill (S.4760), which forbids the slaughter of animals too ill to stand to be used for human consumption. And instead of banning the inhumane production of foie gras, the State actually issued a \$420,000 grant to *expand* production at the only foie gras farm in the State. New York is one of only two states that produce foie gras; the only other state, California, has banned its production after 2012.

Environmental protection: Bills expanding the bottle bill to cover juices and teas, improving state oversight of wetlands, increasing funding for localities to preserve open space, and imposing a cap on carbon dioxide emissions from power plants were also not addressed.

New York State Senate
Albany, NY 12247



STATE SENATOR LIZ KRUEGER'S
Albany Update



Know a high schooler interested in public service?
Democracy 101
My Civics Education Project for high school students (public and private) begins again this fall. Call Pat McCandless in my office to apply: (212) 490-9535.

91st Street Marine Transfer Station battle continues

In June, I reaffirmed my opposition to any municipal waste management plan that includes a Marine Transfer Station (M.T.S.) at 91st St. and the East River in testimony before the City Council's Committee on Sanitation. I support marine transfer stations in waste disposal solutions and believe that every borough must be responsible for its own garbage. However, I oppose operating a M.T.S. in any residential neighborhood.

An M.T.S. located at 91st St. would have damaging effects on area parks, traffic, quiet, air quality and public health. 13,500 people live within a quarter mile of the site, including 1,850 children, 1,622 senior citizens, and more than 1,500 people living below the poverty line. The *second* most-populated location proposed by the City—Hamilton Ave. in Brooklyn—has fewer than 4,300 people living within a quarter mile. And all other proposed M.T.S. sites are separated from the closest residences by a commercial zone.

Despite the clear inappropriateness of the East 91st Street site, the Council approved the waste management plan in July. However, the fight to protect our community is far from over. The full plan must pass reviews by state and federal agencies and faces a number of legal challenges. I'll continue to urge the Mayor and the Council to develop a plan that makes sense for our City and protects our environment.

Con Edison/Waterside site development rezoning process to start

Momentum for responsible development at the former Con Edison Waterside site on First Ave. below 42nd St. continues to grow. The East River Realty Corporation has proposed developing a dense cluster (5.5 million square feet!) of towers on the site. The proposed density would allow multiple towers significantly taller than the U.N. Secretariat. That kind of density would jam local schools and overwhelm the area's transit and sewage infrastructure.

In response, I've helped form the Waterside Working Group, a coalition of representatives from Community Board 6, community organizations and the site's elected officials. This coalition sponsored a community forum attended by 300 residents and turned out hundreds more to City Planning's Scoping Session to support C.B. 6's more contextual plans for the site, push to add affordable housing, real park space, and a new school to the plans.

This fall, the developer will begin the formal rezoning process by submitting a Uniform Land Use Review Process (ULURP) application to City Planning. The ULURP process provides many opportunities for public input before the rezoning is voted on by the City Council. This is a once in a lifetime opportunity for enlightened development that could add new community amenities and infrastructure. But that won't happen without immense public involvement. If you'd like to be notified of the public hearings, phone Sarra Hale-Stern in my office at (212) 490-9535.