ALBANY, NEW YORK

April 11, 1994

3:56 p.m.

REGULAR SESSION

SENATOR HUGH T. FARLEY, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

ACTING PRESIDENT FARLEY: Senate will come to order.

Please rise for the Pledge of Allegiance to the Flag.

(Whereupon, the Senate joined in the Pledge of Allegiance to the Flag.)

Today, in the absence of visiting clergy, we'll bow our heads for a moment of silent prayer.

(Whereupon, there was a moment of silence.)

The Secretary will begin by reading the Journal.

THE SECRETARY: In Senate, Sunday, April 10. The Senate met pursuant to adjournment. Senator Farley in the chair upon designation of the Temporary President. The Journal of Saturday, April 9, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT FARLEY: Hearing no objection, the Journal will stand approved as read.

The order of business:

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President. May I please announce an immediate meeting of the Committee on Finance in Room 332. Finance, 332.

ACTING PRESIDENT FARLEY: The Finance Committee will be meeting immediately in 332, the Majority Conference Room.

Do we have anything else from a standing committee?

(There was no response.)

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Pataki.

SENATOR PATAKI: Yes, Mr. President. On behalf of Senator Levy, I make

the following motion. I move that on page 5, Calendar Number 265 be amended, Senate Bill 1707A, and that the bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Amendments received. The bill will retain its place.

SENATOR PATAKI: On page number 10, on behalf of Senator Daly, Calendar Number 474, that Assembly Print 8570A be amended and retain its place on the Third Reading Calendar.

ACTING PRESIDENT FARLEY: Without objection, the bill is amended and will retain its place.

SENATOR PATAKI: On behalf of Senator Sears, that Senate Print 7300 have its enacting clause stricken and be -- be discharged from committee and have it's enacting clause stricken.

ACTING PRESIDENT FARLEY: Without objection.

SENATOR PATAKI: And also I would like to request that Calendar Number 537, Senate

Bill 7430, be starred and Calendar Number 538, Senate Bill 7431, be starred.

ACTING PRESIDENT FARLEY: The bills are starred at the request of the sponsor.

Any other motions on the floor?

Seeing none, Senator Present, what is your pleasure?

SENATOR PRESENT: Mr. President. Let's take up the noncontroversial calendar.

ACTING PRESIDENT FARLEY: Secretary will read the noncontroversial calendar.

THE SECRETARY: On page 8, Calendar Number 354, by Senator Cook.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

SENATOR PRESENT: Lay it aside for the day.

ACTING PRESIDENT FARLEY: Lay it aside for the day.

THE SECRETARY: Calendar Number 396, by Senator Cook.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 432, by Senator Levy.

SENATOR PRESENT: Lay it aside, please.

ACTING PRESIDENT FARLEY: Lay it aside.

For the day? No, just lay it aside.

THE SECRETARY: Calendar Number 468, by Senator Farley, Senate Bill Number 1593A, an act to amend the Banking Law, in relation to licensing of money transmitters.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 505, by Senator Volker, Senate Bill Number 4336, an act to amend the Criminal Procedure Law and the Penal law.

ACTING PRESIDENT FARLEY: Read

the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 509, by Senator Volker, Senate Bill Number 6803A, an act to amend the Penal Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

SENATOR GOLD: Wait one second.

ACTING PRESIDENT FARLEY: Hold it up. 509, Senator.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it

aside. Withdraw the roll call.

THE SECRETARY: Calendar Number 512, by Senator Volker, Senate Bill Number 7062, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 527, by Senator Larkin, Senate Bill Number 7318, an act to amend the Real Property Tax Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 533, by Senator Tully, Senate Bill Number 232A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 35.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 534, by Senator Farley, Senate Bill Number 6391, an act to amend the Public Authorities Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 36.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 535, by Senator Kuhl, Senate Bill Number 6700, an act to amend the Canal Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 536, by Senator Levy, Senate Bill Number 7147,

an act to amend the Railroad Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 38.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 544, by Senator Nozzolio, Senate Bill Number 6329, an act to amend the Election Law.

ACTING PRESIDENT FARLEY: Senator Gold, what's your -- that bill was starred, I think.

SENATOR PRESENT: 537 was starred.

ACTING PRESIDENT FARLEY: 537 was starred, Senator. We're on 544.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it

aside.

THE SECRETARY: Calendar Number 546, by Senator Nozzolio, Senate Bill Number 6365, an act to amend the Election Law, in relation to campaign financial disclosure statements.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar Number 547, by Senator Nozzolio, Senate Bill Number 6639.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

Senator Present, that's the first time through.

Senator Waldon.

SENATOR WALDON: Thank you very much, Mr. President. I would like the record to show that on Thursday of last week had I been in the chamber, I would have voted no on Calendar 513. And, on Friday, had I not been out on

other business with the Legislature, I would have voted no on Calendar 515 and 516.

ACTING PRESIDENT FARLEY: The record will show that.

SENATOR WALDON: Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Any other motions on the floor?

Senator Present, that is the first time through.

SENATOR PRESENT: Mr. President. Can we stand at ease for a few moments.

ACTING PRESIDENT FARLEY: The Senate will stand at ease.

(Whereupon, the Senate was at ease.)

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Mr. President. Can we return to reports of standing committees?

ACTING PRESIDENT FARLEY: We certainly can. There is a report of the

Standing Committee on Finance.

Secretary will read it.

THE SECRETARY: Senator Stafford from the Committee on Finance reports the following bill directly for third reading:

Senate Bill Number 7585, by the Senate Committee on Rules, an act to provide for payments to municipalities and to providers of medical services under the Medical Assistance Program.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Mr. President. I would like to have the third reading of this bill at this time.

Are there two messages combined in one at the desk?

ACTING PRESIDENT FARLEY: Yes, there is.

SENATOR PRESENT: I move that we accept the messages.

ACTING PRESIDENT FARLEY: All in favor of accepting the messages, say aye.

(Response of "Aye.")

Those opposed, nay.

(There was no response.)

The messages are accepted.

SENATOR PRESENT: Last section.

ACTING PRESIDENT FARLEY: Without objection, the bill has been reported to third reading. And you would like to have it read at this time?

SENATOR PRESENT: Right.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Holland.

THE SECRETARY: Senator Holland down. Senator Maltese down.

ACTING PRESIDENT FARLEY: Senator Kuhl.

SENATOR KUHL: Yes. Mr. President. May I have unanimous consent to be recorded in the negative on Calendar Number 533, Senate Print 232A.

ACTING PRESIDENT FARLEY: 533, Senator Kuhl is in the negative.

SENATOR KUHL: Thank you.

ACTING PRESIDENT FARLEY: Senator Present.

SENATOR PRESENT: Mr. President. Let's take up the controversial calendar.

ACTING PRESIDENT FARLEY: Controversial. The Secretary will read.

THE SECRETARY: On page 9, Calendar Number 396, by Senator Cook, Senate Bill Number 2287, an act to amend the Environmental Conservation Law.

SENATOR GOLD: Can we get a day on that?

SENATOR PRESENT: Lay it aside temporarily.

ACTING PRESIDENT FARLEY: Senator Cook, could he have a day on that bill?

SENATOR COOK: Yes.

ACTING PRESIDENT FARLEY: Lay it aside for the day, Senator Present?

SENATOR PRESENT: Yes.

ACTING PRESIDENT FARLEY: Okay.

THE SECRETARY: On page 10, Calendar Number 432, by Senator Levy, Senate Bill Number 79A, an act to amend the Vehicle and Traffic Law and the Education Law.

ACTING PRESIDENT FARLEY: There is a local fiscal impact note here at the desk.

You can read the last section.

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

SENATOR PRESENT: Lay it aside.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT FARLEY: Lay it aside.

THE SECRETARY: Calendar number 468, by Senator Farley, Senate Bill Number 1593A, an act to amend the Banking Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT FARLEY: Senator Leichter.

SENATOR LEICHTER: Yes. I ask unanimous consent to be excused from voting on this bill.

ACTING PRESIDENT FARLEY: Senator Leichter, without objection, will be excused from voting.

Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 44.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 509, by Senator Volker, Senate Bill Number 6803A, an act to amend the Penal Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 544, by Senator Nozzolio, Senate Bill Number 6329, an act to amend the Election Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 45. Nays 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT FARLEY: That bill is passed.

THE SECRETARY: Calendar Number 546, by Senator Nozzolio, Senate Bill Number 6365, an act to amend the Election Law.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 547, by Senator Nozzolio, Senate Bill Number 6639, an act to amend the Election Law, in

relation to nominations for public office.

ACTING PRESIDENT FARLEY: Explanation. Senator Nozzolio.

SENATOR NOZZOLIO: This bill allows a candidate who is nominated by one party to decline such nomination if that candidate is hereinafter nominated by that party for another office. This happened just this last year with the eminent Senator to my right, Senator Rath as an example, who was running for re-election as a county legislator, was nominated by both the Republican and Conservative parties. Upon her nomination during the special election period to both parties, that there was a problem in terms of declination. This bill would allow that problem to be eliminated by allowing the candidate to decline the first nominations even though it may be nominated by only one of those two parties.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Will the sponsor yield to a question just so I make sure

I understand this?

ACTING PRESIDENT FARLEY: Senator Nozzolio, will you yield to a question?

SENATOR NOZZOLIO: Yes.

SENATOR DOLLINGER: Senator, can you just explain to me the circumstances under which that works? You are nominated for a position by a party, and then there is subsequently a second nomination at a later time that requires to you decline, and you are outside the declination period; is that correct?

SENATOR NOZZOLIO: That's correct, Senator.

SENATOR DOLLINGER: So, just so I understand how it works in the electoral calendar. The period, as I recall, in '92 which is the one I'm most familiar with, there was a period between the 28th of July and the 3rd of August, a four- or five-day period in which, after you were nominated, you could decline the nomination and take a nomination from another party.

SENATOR NOZZOLIO: Correct,

Senator. That's the normal declination period traditionally designed so that when some petitions are filed, then a party has the opportunity to either accept or decline the nomination on their behalf. But when there is another election taking place, a special election, where that candidate may be nominated for a higher office or another office - obviously the declination period has expired - because of the changed circumstances, this would, in effect, inure to the candidate who was running for another office during the period after the declination period has been terminated, is overwith.

SENATOR DOLLINGER: Okay. Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT FARLEY: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President. I offer the following amendments on Calendar Number 175, Senate Print Number 471, on behalf Senator Levy.

ACTING PRESIDENT FARLEY: Amendments received. The bill will retain its place.

Senator Present.

SENATOR PRESENT: Any more housekeeping.

ACTING PRESIDENT FARLEY: Just a minute. There might be some more.

SENATOR PRESENT: Might be?

SENATOR LIBOUS: Mr. President. Would you also remove the star from that, please.

ACTING PRESIDENT FARLEY: The star is removed at the request of the sponsor.

Any other motions on the floor?

Seeing none, Senator Present.

SENATOR PRESENT: Mr. President. There being no further business, I move that we adjourn until tomorrow at 3:00 p.m.

ACTING PRESIDENT FARLEY: The Senate will stand adjourned until tomorrow at 3:00 p.m.

(Whereupon, at 4:25 p.m., Senate adjourned.)