ALBANY, NEW YORK

July 22, 1997

12:28 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order.

Would you please rise and join with me in the Pledge of Allegiance.

(The assemblage repeated the Pledge of Allegiance to the Flag.)

May we bow our heads in a moment of silence.

(A moment of silence was observed.

THE PRESIDENT: The reading of the Journal, please.

THE SECRETARY: In Senate, Monday, July 21st. The Senate met pursuant to adjournment. The Journal of Sunday, July 20th, 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.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

Madam President, on page number 4, I offer the following amendments to Calendar Number 758, Senate Print 4982-A, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

SENATOR MARCELLINO: Madam President, on behalf of Senator Present, I wish to call up his bill, Print Number 765-A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Present, Senate Print 765-A, an act to amend the State Administrative Procedure Act.

SENATOR MARCELLINO: Madam President, I now move to reconsider the vote by

which this bill was passed.

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 34.

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

THE PRESIDENT: Amendments received.

SENATOR MARCELLINO: Madam President, on behalf of Senator Lack, I wish to call up his bill, Print Number 2699-B, recalled from the Governor, which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Lack, Senate Print 2699-B, an act to amend the Alcoholic Beverage Control Law.

SENATOR MARCELLINO: I now move to reconsider the vote by which the bill was passed.

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on

reconsideration.)

THE SECRETARY: Ayes 34.

SENATOR MARCELLINO: I now offer the following amendments.

THE PRESIDENT: Amendments received.

SENATOR MARCELLINO: Madam President, on behalf of Senator LaValle, I wish to call up his bill, Print Number 3286-A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator LaValle, Senate Print 3286-A, an act to amend the Civil Rights Law.

SENATOR MARCELLINO: Madam President, I now move to reconsider the vote by which the bill was passed.

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 34.

SENATOR MARCELLINO: I now offer

the following amendments.

THE PRESIDENT: Amendments received.

SENATOR MARCELLINO: Madam President, on behalf of Senator DeFrancisco, I wish to call up his bill, Print Number 4448, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Senate Print 4448, an act in relation to authorizing the county of Onondaga.

SENATOR MARCELLINO: Madam President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 35.

SENATOR MARCELLINO: I now offer the following amendments.

THE PRESIDENT: Amendments received.

SENATOR MARCELLINO: Madam President, on behalf of Senator Tully, I wish to call up his bill, Print Number 5582, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Tully, Senate Print 5582, an act to amend the Public Authorities Law.

SENATOR MARCELLINO: Madam President, I now move to reconsider the vote by which this bill was passed.

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 35.

SENATOR MARCELLINO: I now offer the following amendments.

THE PRESIDENT: Amendments received.

SENATOR MARCELLINO: Madam President, on behalf of Senator Johnson, I wish to call up his bill, Print Number 5410-C, recalled from the Assembly, which is now at the

desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Johnson, Senate Print 5410-C, an act to amend the Environmental Conservation Law.

SENATOR MARCELLINO: I now move to reconsider the vote by which the bill was passed.

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 35.

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

THE PRESIDENT: Amendments received.

SENATOR MARCELLINO: Madam President, lastly but not least at least for today, on behalf of Senator Velella, I wish to call up his bill, Print Number 5452, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: By Senator Velella, Senate Print 5452, an act to amend the Insurance Law.

SENATOR MARCELLINO: Madam President, I now wish to reconsider the vote by which this bill was passed.

THE PRESIDENT: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 36.

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

ACTING PRESIDENT MEIER: Amendments received.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. President, on behalf of Senator Santiago, I wish to call up Senate Print 5595, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: By Senator Santiago, Senate Print 5595, an act to authorize

the Office of General Services.

SENATOR STACHOWSKI: Madam President, I now move to reconsider the vote by which this bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 37.

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

ACTING PRESIDENT MEIER: Amendments received.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Transportation Commit tee and the Finance Committee in the Majority Conference Room. These committees will meet jointly to take up some nominations.

ACTING PRESIDENT MEIER: Immediate meeting of the Finance and Transporta tion Committees in the Majority Conference

Room.

Senator Skelos.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we could take up Calendar Number 62 at this point.

THE SECRETARY: Calendar Number 344, by member of the Assembly Feldman, Assembly Print 5700-A, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 479, by Senator Skelos, Senate Print 3208-A, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 486, by Senator Skelos, Senate Print 331-A, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect on the first day of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 823, by Senator Rath, Senate Print 3802-B, an

act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 18. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 991, by Senator Levy, Senate Print 4234-A, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1078, by Senator Libous, Senate Print 4473-A, an act to authorize the town of Richford.

ACTING PRESIDENT MEIER: There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1083, by Senator Seward, Senate Print 4790-A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1168, by Senator Leibell, Senate Print 3215-B, an act authorizing the town of Southeast, Putnam County.

ACTING PRESIDENT MEIER: Home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1398, by Senator Spano, Senate Print 2487-A, an act to amend the Correction Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos, that completes the non-controversial calendar.

SENATOR SKELOS: I believe also the controversial, so we'll stand at ease pending the report of Finance.

ACTING PRESIDENT MEIER: The Senate will stand at ease pending the report of Finance.

(The Senate stood at ease from 12:40 p.m. until 12:45 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, at this time would you call Calendar Number 1519.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1519, by Senator Velella, Senate Print 5452-A, an act to amend the Insurance Law.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: Yes, there is, Senator Skelos.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The messages are accepted. Read the last section.

THE SECRETARY: Section 23. This act shall take effect July 1st, 1997.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR SKELOS: Mr. President, if you could call up Calendar Number 1493.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1493, by Senator Johnson, Senate Print 5410-D, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: Yes, there is a message.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The message is accepted. Read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR SKELOS: Mr. President, if we might stand at ease.

ACTING PRESIDENT MEIER: Senate will stand at ease.

(The Senate stood at ease from 12:47 p.m. until 1:48 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we can return to motions and resolutions, I move at this time that we adopt the Resolution Calendar in its entirety.

ACTING PRESIDENT MEIER: All those in favor of adopting the Resolution Calendar in its entirety say aye.

(Response of "Aye.")

Opposed?

(There was no response.)

The Resolution Calendar is adopted.

SENATOR SKELOS: Mr. President, if we have could return to reports of standing committees, I believe there's a report of the

Finance Committee at the desk. I ask it be read at this time.

ACTING PRESIDENT MEIER: Reports of standing committees. The Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers up the following bill:

Senate Print 5720, by the Committee on Rules, an act making appropriations for the support of government.

ACTING PRESIDENT MEIER: Without objection, to Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, do we need a substitution to be made at this time? No? Mr. President, on Senate bill 5720, is there a message of necessity and appropriation at the desk?

ACTING PRESIDENT MEIER: There is a message of necessity and appropriation at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of

necessity and appropriation say aye.

(Response of "Aye.")

Opposed?

(There was no response.)

The message is accepted.

Read the last section.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEIER: I'm sorry. Senator Leichter.

SENATOR LEICHTER: Yes. This is the budget extender, Mr. President?

ACTING PRESIDENT MEIER: One moment, Senator Leichter. We have to read the bill first to get the bill before the house and then I'll recognize you.

Secretary will read.

THE SECRETARY: Calendar Number 1536, by the Committee on Rules, Senate Print 5720, an act making appropriations for the support of government.

ACTING PRESIDENT MEIER: Now, Senator Leichter.

SENATOR LEICHTER: Mr. President, I believe I have an amendment at the desk.

ACTING PRESIDENT MEIER: It just arrived this second, Senator.

SENATOR LEICHTER: O.K. Thank you.

ACTING PRESIDENT MEIER: Senator Leichter, on the amendments.

SENATOR LEICHTER: Yes. Thank you very much, Mr. President.

This is a very simple amendment. It's so short, so simple, so direct to the point that I'm going to read every word of it, Mr. President.

"The expenditure of any public funds on advertisements which feature the names or likeliness of the Governor, Lieutenant Governor, Comptroller or Attorney General is prohibited."

Mr. President, my colleagues, the reason for this amendment is very obvious. We have seen more and more public officials - statewide officials -- using public funds to put their likeness on television in what are ostensibly public service ads that really whose purpose is to feature these officials.

Now, over the years at various

times, members of this body, some of whom I'm sure will remember, I remember Senator Bruno urging an amendment like this some years ago when there was a governor of a different party who was trying to put his likeness on television and making these public service announcements, and let me say I agreed with Senator Bruno.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, is this bill adding language to the appropriation bill?

SENATOR LEICHTER: Is this -- no, Mr. President. What it's -- what it's doing is clarifying how the monies in this bill are to be spent.

SENATOR SKELOS: I would ask that the Chair rule that the amendment be out of order based upon the banking decision that you cannot add language to an appropriation bill.

ACTING PRESIDENT MEIER: Senator Skelos, it is the ruling of the Chair then that the amendment is out of order on the grounds that it adds language to an appropriations bill.

SENATOR LEICHTER: Mr. President, if I -

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Mr. President, first, are you changing your ruling because initially you ruled that the amendment was in order?

SENATOR SKELOS: Mr. President, if I could correct Senator Leichter's hearing, there was no -- the issue of germaneness was not raised at any point. I raised a point of order after he started explaining his amendment and you've ruled it out of order, so I believe now, if we could continue with the bill, debate on the bill, or move to pass the bill.

SENATOR LEICHTER: Well, Mr. President, I think before we get to a vote on the bill, I think I have a -- I'm entitled to be heard on your ruling, and I intend to challenge your ruling, Mr. President, and I'd like to be heard on that issue.

It seems to me that what -

SENATOR SKELOS: Mr. -- Senator Leichter, just as a point of order, are you

appealing the ruling of the Chair?

SENATOR LEICHTER: Yes.

Mr. President, I believe that the ruling that Senator Skelos referred to had to do with the regular budget. Here we have a special appropriation bill, an emergency appropriation bill which I think is dealt differently. I think it's perfectly appropriate in this sort of a measure to specify and clarify how the appropriations are to be spent. So I believe that to apply a ruling that dealt with the general budget and to make it applicable to emergency appropriations, I think, is incorrect and, Mr. President, it seems to me that in the absence of clear language in a court decision or in statute which would bar this amendment, this amendment having been ruled germane, I find no reason or no basis for now suddenly declaring that it's no longer germane.

I don't know whether it was - maybe I made the mistake of mentioning Senator Bruno. If I hadn't mentioned that maybe everything would have been fine, and we could have gone ahead and we probably would have disposed of the matter by now. If that was the

problem, I'll withdraw the mention of Senator Bruno, but to base it on that this requires a separate bill, I think is incorrect.

I think what we're doing is specifying how the money that we're appropriating is to be spent or not to be spent. I think that's perfectly proper. I think it is important. I think it's necessary for this Legislature to say whether it's to the Governor who's been doing it or whether it's to the Comptroller who has not been doing it, to say you can't use public monies to campaign.

You want to have public financing, I'll support it, but do it openly. Don't do it in a subversive manner, and that's the intent and purpose of this amendment. I think it is germane. I don't think it's barred by the ruling that Senator Skelos referred to and, Mr. President, I appeal your ruling.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Yeah, just again to clarify, Senator Leichter, I didn't raise the question of germaneness, just it was out of

order, so at this point a "no" vote would uphold the ruling of the Chair; a "yes" vote would not uphold the ruling of the Chair.

ACTING PRESIDENT MEIER: That's correct.

The question before the Senate is shall the decision of the Chair be sustained? All those in favor of overriding the Chair signify by saying aye.

(There was no response.)

The vote is to -- let me clarify. The vote is on the appeal of the ruling of the Chair. All those in favor of overruling the Chair vote aye. All those in favor of sustaining the ruling of the Chair vote nay.

The vote on the resolution, all in favor of the -- the vote is on the appeal of the Chair. All those in favor of the appeal vote aye.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: I would like a

party vote in the affirmative, whatever.

ACTING PRESIDENT MEIER: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

ACTING PRESIDENT MEIER: Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 20, nays 31, party vote.

ACTING PRESIDENT MEIER: Secretary will read the last section.

THE SECRETARY: Section 13. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

SENATOR HOFFMANN: Explain my vote, please.

ACTING PRESIDENT MEIER: Senator Hoffmann to explain her vote.

SENATOR HOFFMANN: Thank you, Mr. President.

We were -- we were caught a

little bit by surprise, I think, by the ruling on the amendment, but I -- I would like to underscore that I have great sympathy for my colleague, Senator Leichter, not as much on the merits of the issue that he brought up today but on the frustration which I'm sure he feels and I feel and I know that my constituents feel that we are reduced in this chamber to utilizing tiny parliamentary opportunity to register significant viewpoints on matters of great urgency in this state.

It troubles me that there is no opportunity in an organized committee process for issues such as the one Senator Leichter wanted to bring forth as an amendment to be discussed, but even greater a frustration to me is the fact that I am once again in Albany having left the 48th Senate District, here in the third week of July to vote on another budget extender, putting this state on auto-pilot without having the opportunity for meaningful input into the budget process as I am duly elected.

I would like the record to reflect that it is only under duress that I will

vote for this extender. I do not continue to vote indefinitely for budget extenders, nor do the people who send me here to work for them want me to vote for budget extenders. They expect me to vote for a budget.

ACTING PRESIDENT MEIER: Senator Hoffmann in the affirmative.

Senator Dollinger?

SENATOR DOLLINGER: Just to record in the negative, Mr. President.

ACTING PRESIDENT MEIER: Secretary will read the results.

THE SECRETARY: Ayes 50, nays one, Senator Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could, I believe there are some nominations to be confirmed at the desk. If we could continue with the reading of the Finance Committee report.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Senator Stafford, from the Committee on Finance, offers up the following nominations:

As Commissioner of Transportation Joseph H. Boardman, of Rome.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Excuse me. Yes, Mr. President. Once again I stand up and as a compliment to the Governor and his people, we again today had three very fine individuals appear before the Finance Committee and every one acquitted themselves exceptionally well.

Mr. Boardman, who I believe his name is before us at the present time and I believe you'll be coming down to take your seat possibly -- no, excuse me. Senator Libous is - I'm going to yield to Senator Libous or, excuse me, Senator Hoffmann has one too. I'm sorry. But anyway I have to share with you, and this is an example of our system working.

We had a gentleman appear, Mr. Boardman, and it was acknowledged that there were some serious issues. He's going to be leading a very -- when we confirm him, he's

going to be leading a very complex department. He has a very difficult job to do, but I was impressed with the statement to the committee, his convictions, and again I think we're very very fortunate to be having Joseph Boardman as Commissioner of Transportation, and with that I will yield to the Senator from Broome.

ACTING PRESIDENT MEIER: Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President, and thank you, Senator Stafford.

It's indeed an honor for me to rise and help to second the nomination of Joe Boardman.

Joe Boardman, I can honestly say, is a true friend. I've gotten to know Joe over the last 15 years, and we've worked side by side on issues both governmentally and politically, and I have to tell you one thing: When you work with Joe Boardman, you always get the ball on the goal line. You never fall short, and I want to commend Governor Pataki. He has made a number of excellent appointments over the past few years, but I would consider Joe Boardman a great appointment, and I know that he'll do a

great, great job.

You know, if you talk to people who have worked with Joe Boardman, you'll hear that he is words like "professional", "tough", "fair", "honest", "sincere", "compassionate". I think both the Transportation Committee and the Senate Finance Committee saw that today when Joe Boardman answered questions to them, and many of the questions are very personal because you know, when it comes to the Department of Transportation, many of the things that affect us as legislators are those personal issues when we need to help open a road or help along with construction that may be blocking off a business, and Joe Boardman answered every one of those questions.

Just to take another second, Mr. President, I just want to tell you a little bit about Joe. He may be from Rome and he may be from Oneida County, but he was adopted by Broome County for a number of years, and he is our adopted son, and I want to tell you, as the Commissioner of Transportation for Broome County, Joe Boardman made transportation a human service rather than a physical service. He

began a public service for people with disabilities and people who lived in rural areas and that's where that compassion comes in.

He also worked to control Medicaid transportation costs by helping people find alternatives other than taking a taxicab ride to medical services. These are the kinds of programs he implemented in our county, and the kind of leadership he will show in the state.

And just on another tack to tell you a little bit about Joe Boardman, the county executive that he have worked for, Carl Young, who I know would also, if he had the opportunity would say good things about Joe today, I could see Joe convinced the county executive that the right thing to do was to take donuts and coffee out to the garage to the employees and to the bus drivers and wish them a little bit of holiday cheer, and again that's the kind of person that Joe Boardman, that Joe Boardman is.

I'll just end by saying this. I am pleased with the Governor's appointment and, Joe, success and Godspeed to you and your family and I see that your family is with you today

but, Joe, there are times that I'm back in Broome County, and I'll be walking in front of the government office building, as you know the buses pull up in front and they go in and out and a bus driver will stop in the middle of the street, open the door and he'll say, Senator, how is Joe doing, so they haven't forgotten you. I wish you the very best.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Yeah. I rise as the ranking member of the Transportation Committee to also speak in relationship to the new -- hope soon to be new Transportation Commissioner of the state of New York.

I have to commend the Governor. I did not have the pleasure, as Senator Libous had, of meeting Mr. Boardman before today, but I must tell you, I am quite impressed. I'm impressed with his intellect. I'm impressed with his experience in both the public and private sector. I'm impressed with his integrity, and I'm impressed with his willingness to meet with constituencies throughout the state of New York.

As I mentioned to him earlier in the day before the joint meeting of Transportation and Finance, there are certain issues that I feel must be handled immediately. As New York City newspapers recently brought to our attention, there are projects that are being currently mismanaged by the contractors that the state has hired. With cost overruns and delays, these projects have become a nightmare to the motorists of the state, especially in New York City, and they're an embarrassment to the state of New York, and New Yorkers should not be forced to pay more for shoddy work and traffic tie-ups.

I only raise this issue now because I know this is the concern of Mr. Boardman as well as members of this chamber. I am confident that Mr. Boardman is up to the task that faces him. He comes to us with a broad and diverse background in transportation in both the public and private sector, and I would like to echo the sentiments and remarks of the chairman of the Finance Committee and Senator Libous in seconding his nomination, and look forward to a strong working relationship with him as he will

have with every member of this chamber.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in the Majority Conference Room.

Senator Breslin.

SENATOR BRESLIN: Mr. President, I rise as Joe Boardman is a former client of mine, a friend of mine, but more importantly he is, as Senator Libous said, a very bright, professional, dedicated public servant who really will bring to the Department of Transportation great credit, to our Governor, and do an outstanding job and I'd like to commend the appointment of Joe and wish him every success to both he and his family.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Mr. President, it

is my pleasure to speak to my colleagues in recognizing the fine appointment of Joe Boardman and say that, as Senator Libous expressed, he certainly picked the best for a long time and in the short time I've been privileged to work with him in his new capacity in the Department of Transportation, he has shown that he's a hands on type of person. By that, he's taking a big time bureaucracy we call the Department of Transportation and making sure that it becomes a user-friendly agency and, to do that, he brings a personal attention to the transportation needs of the people we represent across the state of New York.

There is nobody better qualified than Joe Boardman to be placed in that position of responsibility, and I commend the Governor and congratulate Joe and his family on this appointment today.

Thank you.

ACTING PRESIDENT MEIER: Senator Larkin.

SENATOR LARKIN: Thank you, Mr. President, my colleagues. I rise in seconding the nomination to be the lead Commissioner of

Transportation. Since Mr. Boardman became the Acting Commissioner, he extended himself in all ways. I have talked to many county officials, town officials, villages and cities, and they have told me that when they've gone forward to his office that he extended himself back in communicating with them directly.

A number of problems we've had in the Hudson Valley that he's immersed himself with and made sure that his personal feelings and that of the second floor were included in the needs of Orange County, Sullivan County, Ulster County, Dutchess, and my good friend from Rockland, and I think that Joe has just showed us that he's a hands-on person, wants to do the job, wants to be cooperative.

That's what we need for a department the size of the Department of Transportation and, Joe, you're to be commended for taking the job, but God only knows why you want it.

God bless you and your family.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr.

President.

I rise to second the nomination of Joe Boardman. You know, this is a people oriented person as Tom Libous was saying, and somebody, you look at him, he's sitting in the third row there instead of up front with his family.

Joe, let me just say that as somebody here, everybody in this chamber and everybody that is elected has an awful lot to request of, and business with the Department of Transportation. You have been responsive; you've been responsive in my district, you know, but I think the highest compliment that I could give you and the reason that I'm so confident of the job that you're doing and the job that you've done is our former commissioner, Senator/ Commissioner John Daly speaks so highly of you and recommends you most highly, and with that, I certainly am most confident that you're going to be an outstanding commissioner as you have been as an acting commissioner.

Again, you've served the people of this state, you serve the people that appoint you and the Governor is to be congratulated and

we're very, very proud of this appointment.

Best wishes.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

It gives me great pleasure to rise in support of the nomination of Joseph H. Boardman to the position of Commissioner of Transportation, and he has clearly demonstrated an understanding of the transportation needs all across the state.

I think all of us who sat in Finance this morning were impressed, and greatly comforted by the fact that he could speak as comfortably to the questions raised by colleagues from western New York, the Southern Tier as he could to those from New York City and Long Island.

The fact that he comes from a smaller city in our state, the city of Rome, where he has also had experience in transportation, the fact that he has had experience in transportation in Elmira and knows that part of the state, I think bodes very well

for us in the future.

Part of our success in the area of tourism depends upon our ability to allow tourists to move freely across this state. Obviously our need to maintain a good highway infrastructure, highway system for commerce and transportation in general, is evident. We need the very finest capability. We need somebody who knows how to rise above politics, who can bring together the disparate forces of contractors, employees, local elected officials and businesses, and I believe in Mr. Boardman we have that individual.

Earlier today, my staff made a couple of calls to Rome looking for appropriate reaction so that I could further help my colleagues understand why Mr. Boardman is so well respected in that city where he resides and I think probably one of the finest comments came from a gentleman who now works on a part-time basis in my office.

Many years ago, this individual, Quint Barry, ran for mayor in the city of Rome and when asked about Joe Boardman, Quint's comments were immediate and very warm. He said,

"Oh, yes. He managed the campaign for the mayor the year that I ran against him. I really like him."

I'm very happy to support Mr. Boardman. Anybody who can elicit that kind of response is going to be up to doing the difficult job of Commissioner of Transportation.

ACTING PRESIDENT MEIER: Senator Seward.

SENATOR SEWARD: Thank you, Mr. President.

It's all been said very very well by my colleagues and, Joe, I don't want to postpone your actual confirmation any longer than necessary by repeating the many fine things that have been said about you, but I would be remiss if I did not stand to second the confirmation of Joe Boardman to be our next Commissioner of Transportation.

Let's face it, a good sound transportation system is vital to our economic future here in New York. A Joe Boardman at the helm of the Department of Transportation will help us greatly in maintaining and enhancing our

transportation system in this state and thus helping us in our efforts to improve the economic vitality of New York State.

But Joe Boardman also realizes that a transportation system is more than pavement and concrete and tangible things of that sort, that there are real people behind all of that, that we're trying to serve. He's a people person, as has been pointed out by my colleagues. He realizes full well that we are in office to serve the people of this state and I know that in his new capacity as actually being Commissioner out at DOT, that the people of this state will be very very well served.

So with that thought in mind, I'm delighted to stand to congratulate, number one, the Governor for this outstanding nomination, to congratulate Joe and your family on this very happy day. It's a good day for the Boardman family, but it's also a good day for the people of this state.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the nomination?

The question is on the

confirmation of Joseph Boardman as Commissioner of Transportation for the state of New York. All in favor signify by saying aye.

(Response of "Aye.")

Opposed?

(There was no response.)

Joseph Boardman is hereby confirmed as Commissioner of Transportation. Commissioner Boardman -- (Applause) - Commissioner Boardman is in the gallery today. He is with his wife Joann, his son Joe, Jr., his daughter Emily, his son Philip, his father Alfred B. Boardman, his sister-in-law, Catherine Griffith.

And, Joe, as your friend for 20 years and as someone who started in local government with you 20 years ago, I had a choice to be down there to talk about you or to preside over your confirmation. I hope you think I made the right decision. Joe, God bless. I think the people of the state of New York are very fortunate. Good luck.

Secretary will read.

THE SECRETARY: As Welfare Inspector General, Paul Balukas, of Brooklyn.

SENATOR SKELOS: Move the nomination, please.

ACTING PRESIDENT MEIER: Senator Holland.

SENATOR HOLLAND: I would like to say a few words about Paul, let you have a little background about him.

He's worked in the office of Welfare Inspector General of New York City since 1995 as counsel to the Welfare Inspector General. He organized the first statewide prosecution bureau for welfare fraud serving as the chief attorney. He has extensive prosecution experience, having served for five years in the Kings County District Attorney's Office, prosecuting and supervising cases of criminal conduct by law enforcement officers, and he has experience in the legislative process having worked in the office of New York State Counsel to the Minority Leader for two years.

He is a graduate of the Brooklyn Law School.

I have worked with Paul and he has the interest and the ability and the enthusiasm to improve this office. We created

this office a number of years ago to bring honesty and trust back to the welfare system. Let me give you just a few of the cases that Paul has been involved with. I think they're kind of interesting, and they're just a few.

Two New York City HOA employees for bribery. They kept recipient cases open when they should have been closed and collected the money. An individual who assumed five identities to collect welfare benefits. He appears at the fair hearing process, which I hear is relatively easy. He appears at the finger imaging process. I'd like to know how he did that, Paul. We set that up, and the application process. Two women were collecting public assistance benefits in New York and North Carolina while both had jobs. One worked for the New York City Board of Education; and an individual who was vice-president of a roofing company -- interesting case -- earning $90,000 a year while he lived with a companion, he forced his wife and children, two children, to live on public assistance; and I think this is just the tip of the iceberg. I think there's many, many more things that you have the interest and the

knowledge to follow up on, and if I recall the figures correctly, last year you recovered - your office recovered about $2 million of fraud for about a $600,000 investment and you're expanding the office statewide.

Paul, I wish you a lot of good luck. You have a lot of work to do. Congratulations to you.

ACTING PRESIDENT MEIER: Senator Gentile.

SENATOR GENTILE: Thank you, Mr. President.

I rise also in support of the nomination of Paul Balukas for Welfare Inspector General. You've heard Paul's qualifications done aptly by Senator Holland. I rise to speak about Paul as not only a native of Bay Ridge, Brooklyn, but also as a friend and now a constituent of mine in Brooklyn.

Paul, I know, is someone who is dedicated to whatever goal is put before him. I first met Paul Balukas back in the late 1970s and the illustration of the event that I worked with him on demonstrates the type of person Paul is.

I joined with Paul Balukas and - joined forces with him to push forward an idea that others thought was a crazy idea, and that was the construction of an $11 million swimming facility at a public high school in Brooklyn, New York. There had not been such a facility built in the city of New York since the second World War, and we in the late 1970s decided that we were going to give it a shot in Brooklyn, New York, and Paul at that time was working for the local City Councilman and, you know, our opponents told us we'd never get it done. You can't fight City Hall. You can't put an $11 million swimming pool into the budget to help the people of South Brooklyn.

Well, people told us that but, instead, Paul worked with us. Paul worked with us and he shepherded the initial appropriation through the New York City Council. He supported those ideas, and I suppose to make a 15-year struggle, a 15-year story fairly short, I have to tell you that that swimming facility today is built and operating at Fort Hamilton High School in Brooklyn, and it's become the best capital project in that part of Brooklyn in years, and

Paul Balukas -- without Paul Balukas' help at the very initial stages of that fight and that struggle, that swimming facility would not be built today.

Since then, Paul Balukas and I have become fast friends, so much so that Paul once tried to recruit me for the Bay Ridge Young Republicans, and now when I mention that to Senator Gold, I think his heart skips a beat, but needless to say that one effort that Paul was not successful in but he tried hard, he tried hard to get me into membership in the Young Republicans.

That fact notwithstanding, Paul and I remain fast friends today. Our careers somewhat coincided as we both served as prosecutors in New York City for several years and he continues today, as I say, as one of my constituents and with his family he remains a prominent and active member in the Bay Ridge community in Brooklyn.

You know, I'm one of Brooklyn's newest elected state Senators. I always look for ways to put partisanship aside and act in the best interests of New Yorkers. This is one

opportunity that I am happy to be here to act in that way in a bipartisan way. Partisanship appears and is pushed aside and is replaced by pride, pride for Paul and his family, pride knowing the job he'll do as the Welfare Inspector General, and pride in calling Paul my friend.

Paul, you will make the state proud. You will make me proud, and you will make your family proud. I urge everyone to support this nomination.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the nomination?

The question is on the confirmation of Paul Balukas as Welfare Inspector General. All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Paul Balukas is hereby confirmed as Welfare Inspector General of the state of New York.

(Applause)

Mr. Balukas is in the gallery. He is accompanied by his father and mother, Albert and Peggy Balukas, and by his niece Kayla Pfister, and also by his niece, Darla Balukas. Welcome, and we're glad you could join us here today. Mr. Balukas, we wish you well and Godspeed in your very important duties.

Secretary will read.

THE SECRETARY: As Alternate Non Voting Member of the Metropolitan Transportation Authority, Thomas J. Cassano, of Staten Island.

SENATOR SKELOS: Move the nomination.

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: Mr. President, it's a pleasure to move this nomination as well or be one of the movers. He is a shining light and in view of the excellent experience he's had both educationally which went into every aspect of transportation that is sensitive, various components, and he's held in great esteem by the membership.

He's also had a hands-on

experience in various levels of management, so there are a few people I think that can match what he offers to the services of the Metropolitan Transportation Authority. So at least for the people of Staten Island, Tom, we're very pleased that you're on the case, and we feel that Staten Island should fare well, which means not at anybody's expense but certainly not be the expense either.

In any event, I'm very pleased to second this nomination.

ACTING PRESIDENT MEIER: Does any others Senator wish to be heard on the nomination?

SENATOR GENTILE: Mr. President.

ACTING PRESIDENT MEIER: Senator Gentile.

SENATOR GENTILE: Thank you. Seems like there's a wealth of nominations coming from the Brooklyn/Staten Island area today. Although I cannot say that I know Mr. Cassano at all, but -- and also I believe he's a constituent of Senator Marchi's, I must say and rise in support of this nomination, for the fact that Mr. Cassano is a Staten Islander and

there are many, many, many issues concerning the MTA on Staten Island including the half fare express bus campaign that has been going on on the Island. I see that Mr. Cassano has some experience with that, with the Transportation Workers Union, and I just rise to second and endorse that nomination and look forward to working with Mr. Cassano and the others on the issues that are not only affecting Staten Island but Brooklyn and the rest of New York City.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: I also rise to second the nomination of Thomas Cassano as a non-voting member of the MTA and to emphasize the importance to the MTA of having a trade union member and leader from the TWU and also someone who came up from the ranks who understands as a professional in his field what is necessary, what works, what doesn't work, to improve the entire transportation system in the city of New York.

We've met. I had the honor of meeting Mr. Cassano for the first time again at this joint meeting of the Transportation and

Finance Committee. He did an excellent job there, and I look forward to his continuation with great goals for the future as a representative of the trade union movement as a non-voting member of the MTA.

Thank you.

ACTING PRESIDENT MEIER: Does any other Senator wish to be heard on the nomination?

The question is on the confirmation of Thomas Cassano as an alternate non-voting member of the MTA. All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Thomas Cassano is hereby confirmed as an alternate non-voting member of the MTA.

Mr. Cassano?

(Applause)

Good luck and congratulations, sir.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator

Skelos.

SENATOR SKELOS: If we could return to reports of standing committees, I believe there's a report of the Rules Committee at the desk. I ask it be read.

ACTING PRESIDENT MEIER: Return to reports of standing committees. The Secretary will read.

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

Senate Print 5721, by the Committee on Rules, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR SKELOS: Mr. President, I move to accept the report of the Rules Committee.

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The report of the Rules Committee is accepted.

SENATOR SKELOS: Take up Calendar Number 1537.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1537, by the Committee on Rules, Senate Print 5721, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR SKELOS: Mr. President, is there a message at the desk?

ACTING PRESIDENT MEIER: There's a message at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: Motion to accept the message of necessity at the desk. All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

Senator Skelos.

SENATOR SKELOS: Please have the last section read.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1537 are Senators Padavan, Spano and Tully. Ayes 50, nays 3.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: If we could call up Calendar Number 1170.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1170, by Senator LaValle, Senate Print 3286-B, an act to amend the Civil Rights Law.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There's a message at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: All in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")
Those opposed by saying nay.
(There was no response.)
The message is accepted. Read the last section.
THE SECRETARY: Section 6. This act shall take effect in 90 days.
ACTING PRESIDENT MEIER: Call the roll.
(The Secretary called the roll.)
ACTING PRESIDENT MEIER: The bill is passed.
THE SECRETARY: Ayes 53.
ACTING PRESIDENT MEIER: Got ahead of you. The bill is passed.
Senator Skelos.
SENATOR SKELOS: Mr. President, is there any housekeeping at the desk?
ACTING PRESIDENT MEIER: No, Senator Skelos, there is no housekeeping.
SENATOR SKELOS: Therefore, I move we adjourn subject to the call of the Majority Leader, intervening days to be legislative days.
ACTING PRESIDENT MEIER: On

motion, the Senate stands adjourned to the call of the Majority Leader, the intervening days to be legislative days.

(Whereupon at 2:32 p.m., the Senate adjourned.)