ALBANY, NEW YORK

August 2, 1997

5:19 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEPHEN F. SLOAN, Secretary

P R O C E E D I N G S

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

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

I ask everyone, in the absence of clergy, to please bow our heads in a moment of silence.

(A moment of silence was observed.)

Reading of the Journal.

THE SECRETARY: In Senate, Friday, August 1st. The Senate met pursuant to adjournment. The Journal of Thursday, July 31st, was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MEIER: 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, Mr. President. On behalf of Senator Stafford, I wish to call up his bill, Print Number 5349, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: By Senator Stafford, Senate Print 5349, an act to amend the Lien Law.

SENATOR MARCELLINO: Mr. 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 46.

SENATOR MARCELLINO: Mr.

President, I now offer the following amendments.

ACTING PRESIDENT MEIER: Amendments received.

SENATOR MARCELLINO: Thank you, sir.

ACTING PRESIDENT MEIER: Senator Skelos.

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

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

SENATOR SKELOS: If we could take up Calendar Number 64, noncontroversial.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 68, by Senator Johnson, Senate Print 324B, an act to amend the Public Health 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 the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

SENATOR LEICHTER: Mr. President, is this the bill on -

ACTING PRESIDENT MEIER: The first bill.

Senator Leichter -- the motion is on the acceptance of the message of necessity.

All in favor, aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

SENATOR SKELOS: Read the last section, please.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8.

This act shall take effect in 120 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 619, by Senator Seward, Senate Print 3367, an act to amend the Executive 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 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1232, by Senator Libous, Senate Print 4716B, an act to authorize the village of

Johnson City.

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

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

SENATOR SKELOS: Move to accept the message.

ACTING PRESIDENT MEIER: There is also a home rule message at the desk.

Motion is to accept the message of necessity.

All in favor say aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The motion carries. The message of necessity is accepted.

SENATOR SKELOS: Last section.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1371, by Senator Levy, Senate Print 5268B, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The motion is to accept the message of necessity.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message of necessity is accepted.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1566, by Senator LaValle, Senate Print 4694, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section -- I'm sorry, wait. There is a home rule message at the desk.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 120 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calender 1569, by member of the Assembly Weprin, Assembly Print 3807B, an act to amend the Highway Law.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1578, by Senator Spano, Senate Print 5742, an act to amend the General Business Law.

ACTING PRESIDENT MEIER: 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 50.

ACTING PRESIDENT MEIER: The

bill is passed.

THE SECRETARY: Calendar 1582, by Senator Bruno, Senate Print 774, an act to authorize Thomas G. Restino, employed by the village of Hoosick, as a member of the village board.

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 49, nays 1, Senator Leichter recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos, that completes the reading of the non-controversial calendar.

Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar Number 1582?

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar 1582.

SENATOR DOLLINGER: Thank you, Mr. President.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Before we go to the controversial calendar, I believe there is some housekeeping at the desk -- no? There's no housekeeping at the desk?

ACTING PRESIDENT MEIER: No, Senator, not at this time.

SENATOR SKELOS: I stand corrected and I will sit quietly, and the Senate will stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(The Senate stood at ease from 4:18 p.m. to 4:19 p.m.)

ACTING PRESIDENT MEIER: The Senate will come to order.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1569?

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1569, by member of the Assembly Weprin, Assembly Print 3807B, an act to amend the Highway Law.

ACTING PRESIDENT MEIER: Can we have some order in the chamber, please?

Senator Maltese, an explanation has been requested by the Deputy Minority Leader.

SENATOR MALTESE: Mr. President, this bill is an act to amend the Highway Law, in relation to extending the Western bord... boundary of the portion of the state highway system designated as the POW-MIA Memorial Highway.

Basically, the bill amends the Highway Law so that the border between Queens and Brooklyn would retain -- or regain the name POW-MIA Memorial Highway. The remainder of the highway, except for that portion, is already

renamed as a result of legislation passed, previously passed by both this house and the Assembly.

The -- certainly, I could go on for hours as to the merit of the bill and the function it serves in memorializaing prisoners of wars and members of the armed services missing in action.

The bill has already been passed in the Assembly, I believe unanimously, and this would serve as a constant reminder as our children and grandchildren grow up and hopefully we are not engaged in armed conflicts as a result of the sacrifices made by the people that we seek to honor by this legislation.

ACTING PRESIDENT MEIER: Senator Paterson -- oh, I'm sorry. Senator Stachowski.

SENATOR STACHOWSKI: We look a lot alike, but in this case -

I know that, Mr. President, if Senator Maltese would yield, I know there were a couple of questions in the Rules Committee yesterday, and I would just pass those questions along to him and maybe he can answer them for me

and there wouldn't be much of a problem with this bill.

ACTING PRESIDENT MEIER: Senator Maltese, would you yield for a question?

SENATOR MALTESE: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR STACHOWSKI: The questions that were raised were -- we know that part of this road is in your district; do you know who else's district in the Senate this part of the road lies in?

SENATOR MALTESE: I do not, Mr. President.

SENATOR STACHOWSKI: Because we were wondering why -- if you would continue to yield -- we were wondering why, since you were renaming part of the highway that ran through other members' districts, why you didn't consult with them and maybe add them to the bill, similar to the way you retrospectively added people to the Jackie Robinson Highway bill and a couple other things.

ACTING PRESIDENT MEIER:

Senator, do you continue to yield?

SENATOR MALTESE: Yes.

Mr. President, with reference to the Jackie Robinson renaming, I was very willing to add those other members because at the time we had other Republican members who were on the bill. In this case, the bill was introduced only by myself without other co-sponsors.

At the same time, I would be prepared to extend the courtesy to any Senator whose district the highway runs through.

SENATOR STACHOWSKI: Thank you, Senator.

ACTING PRESIDENT MEIER: Senator Smith.

SENATOR SMITH: Would the sponsor yield?

SENATOR MALTESE: Yes, Mr. President.

SENATOR SMITH: Thank you.

Would you please include me on the bill, since it goes through my district?

SENATOR MALTESE: Yes, I would be very glad to. I apologize for being

unaware that my esteemed colleague, Senator Smith, has a portion of this district. I'm sure she'll remind me of it in the future; and I'm very glad to add her to the bill.

ACTING PRESIDENT MEIER: Senator Smith, that would require that you fill out the normal buck slip at the desk.

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 51.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SKELOS: Mr. President, I would just like to remind the members that there is a Higher Education Committee meeting going on, so if any members could go into the Majority Conference Room at this time.

Following Higher Education, there will be a meeting of the Finance Committee and then a meeting of the Rules Committee.

So, we'll stand at ease at this time.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(The Senate stood at ease from 4:23 p.m. to 4:56 p.m.)

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: Immediate meeting of the Finance Committee in the Majority Conference Room.

ACTING PRESIDENT MARCELLINO: Immediate meeting of the Finance Committee in the Majority Conference Room has been announced.

The Senate will stand at ease.

(The Senate stood at ease from 4:56 p.m. to 5:19 p.m.)

ACTING PRESIDENT MARCELLINO: Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference

Room, and the Senate will stand at ease.

ACTING PRESIDENT MARCELLINO: Ladies and gentlemen, there will be an immediate meeting of the Rules Committee in the Majority Conference Room. Please attend as expeditiously as possible.

Senate will stand at ease in the interim.

(The Senate stood at ease from 5:20 p.m. to 5:32 p.m.)

SENATOR HOLLAND: Can we return to reports of standing committees?

ACTING PRESIDENT MEIER: Reports of standing committees. The Finance Committee, the Secretary will read.

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

As a member of the Board of Trustees of the City University of New York, John Morning, of New York City.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: It's going to be a pleasure for me to yield to the distinguished Senator from Manhattan.

The Governor, as I've said a number of times this year, has again made a very fine appointment.

John Morning and I have a number of mutual friends; we've known each other for years. He has a concern, he is interested in becoming involved in the issues and supporting higher education by way of being a member of the Board of Trustees of one of the great universities of the world.

Again, I think Senator Paterson and others can help me, but I think the City University has one of the greatest number of Nobel Laureates of any university in this nation, or in the world.

Senator, I was just mentioning the great City University that has one of the greatest number of Nobel Laureates of any nation; and I also, in turn, mentioned what a great appointment John Morning is, And I initially stated as I stood up that I would yield to the distinguished Senator from

Manhattan who, I'm sure, will be more eloquent than I could be and will handle the nomination with dispatch.

ACTING PRESIDENT MEIER: Senator Goodman.

SENATOR GOODMAN: Senator Stafford, your graciousness is only exceeded by your wisdom and the breadth of your human understanding.

Mr. President, I'm greatly honored to be able to speak today for -- on behalf of Mr. John Morning, who is a distinguished New Yorker of very great stature indeed, and who reflects, I think, the concern which the Governor feels about doing everything possible to assist CUNY in its present state of difficulties.

John Morning is a remarkable individual whose professional life is, in and of itself, a testament to good training and excellent execution of his work. He is a graphics designer who has worked for some of the major industrial corporations and others in our city of New York.

But, beyond that, above and

beyond that, in my judgment, is the fact that he has served in many capacities: As a trustee of major foundations, as a member and vice-chair of the New York City Cultural Affairs Commission; as a director and board secretary of the Association of Governing Boards of Universities and Colleges, based in Washington; a trustee of the Brooklyn Academy of Music; a member of the Trustee's Committee on Education of the Museum of Modern Art; a trustee and former chairman of the board of Pratt Institute in Brooklyn; a director and honorary president and former chairman of the board of the well-known Henry Street Settlement House; a director of the Lincoln Center Theater; Trustee of Wilburforce University in Ohio; director of the New York Landmark Conservancy.

In fact, one might venture to say that there are very few worthwhile organ izations with which John Morning has not been associated and in which he has not played a significant leadership role.

John Morning is well-known to me personally, he is an extraordinarily keen and perceptive individual who has a great

understanding of the needs of young people in education; and with CUNY in its present state of need for this type of leadership, I think John Morning will quickly become one of its leading trustees and one of its guiding lights.

Mr. President, one could say much, much more about this very distinguished son of New York, but let me say that I'm very proud indeed to have him as my constituent, and it's a privilege and a very high indeed, to be able to present his name to the Senate for nomination to this very important post which will, I think, be inextricably bound up with the future of the City of New York.

John Morning is a Tiffany quality candidate, a man of great humanistic instincts and a superb trustee, and I think the Senate should promptly support Senator Stafford's nomination and my seconding and take prompt action in his support.

ACTING PRESIDENT MEIER: Senator Markowitz.

SENATOR MARKOWITZ: Thank you very, very much. I have not had the pleasure of meeting Mr. Morning yet, but I'm fortunate to

have a dear friend, and he's also my older brother, by the name of Barry Bloom; and when Barry, for the first time in my life knowing him, picked up the phone and said, "Marty, this is a candidate, this is a man who has such caliber, such professionalism, such sensitivity and devotion, and the work that he's done to improve the quality of life for residents of this city more than make him qualified to be a superb addition to CUNY."

And I have to say that while I've not been fully supportive of some of our - Governor Pataki's recommendations, this one, I can clearly say that he's hitting a home run. I know he's going to be superb on the board, I know, Barry Bloom, you're right, and to Mr. Morning, I wish you well and look forward to working with you.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: I did have the opportunity to meet and hear John Morning at the Higher Education Committee meeting. I didn't have to ask a single question because his responses to questions from other members of the

committee were so good and so on-target that I think this bodes well for the City University of New York, and I am pleased to rise in support of this designation and hope that we will have a unanimous approval.

Thank you.

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

(There was no response.)

The question is on the confirmation of John Morning, of New York City, to the Board of Trustees of the City University of New York.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

John Morning is hereby confirmed as a member of the Board of Trustees of the City University of New York.

Mr. Morning is with us in the gallery today. Would you please stand and receive the recognition of the house.

(Applause)

We wish you good luck with your important duties, sir.

Secretary will read.

THE SECRETARY: As commissioners of the State Insurance Fund, Donald T. DeCarlo, Esquire, of Douglaston, and Jane Rees of Rome.

SENATOR STAFFORD: Move the confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of Donald DeCarlo and Jane Rees as commissioners of the State Insurance Fund.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Donald DeCarlo and Jane Rees are confirmed as commissioners of the State Insurance Fund.

Secretary will read.

THE SECRETARY: As a member of the New York State Energy Research and

Development Authority, John E. Mack, of Poughkeepsie.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

THE SECRETARY: Secretary will read -- I'm sorry, the question is on the confirmation of John E. Mack as a member of the New York State Energy Research and Development Authority.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

John Mack is confirmed as a member of the New York State Energy Research and Development Authority.

Secretary will read.

THE SECRETARY: As member of the Long Island State Park, Recreation and Historic Preservation Commission, Herbert M. Balin, Esquire, of East Meadow.

ACTING PRESIDENT MEIER:

Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of Herbert M. Balin of East Meadow as a member of the Long Island State Park, Recreation and Historic Preservation Commission.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Herbert Balin is confirmed as a member of the Long Island State Park, Recreation and Historic Preservation Commission.

Secretary will read.

THE SECRETARY: As a member of the Stewart Airport Commission, Arthur N. Wilcox, Jr., of Middletown.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The

question is on the confirmation of Arthur N. Wilcox as a member of the Stewart Airport Commission.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Arthur Wilcox is confirmed as a member of the Stewart Airport Commission.

Secretary will read.

THE SECRETARY: As members of the Advisory Council on Alcoholism and Substance Abuse Services, Joette Deane of Oswego and Luke J. Nasta of Staten Island.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of Joette Deane and Luke J. Nasta as members of the Advisory Council on Alcoholism and Substance Abuse Services.

All in favor of the confir mation signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Joette Deane and Luke J. Nasta are confirmed as members of the Advisory Council on Alcoholism and Substance Abuse Services.

Secretary will read.

THE SECRETARY: As a member of the Advisory Council to the Commission on the Quality of Care for the Mentally Disabled, Milo I. Tomanovich, Esquire, of Rochester.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of Milo I. Tomanovich as member of the Advisory Council to the Commission on the Quality of Care for the Mentally Disabled.

All in favor signify by saying aye -- I'm sorry.

SENATOR DOLLINGER: Mr. President, just to explain my vote on Milo Tomanovich, if I may.

ACTING PRESIDENT MEIER: Let me -- can we -- I'd asked for the ayes and the nays. If we can do that, and then I'll let you

explain your vote.

All in favor signify by saying aye.

(Response of "Aye.")

Nay -- I'm sorry. Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Thank you, Mr. President.

I just rise to second this nomination. Milo Tomanovich has a long history in Monroe County, former member of the Monroe County Legislature and served for many years as the chief counsel for the Monroe County Department of Social Services.

I don't know that I've ever met Milo Tomanovich, but I had an opportunity about four or five years ago, six years ago, to serve on a committee in which he was considered for another appointment. And I will just tell all the members of the Senate chamber without breaking the confidence that adheres to that committee, that this lawyer was very, very highly recommended by the people whom he worked for, and he has a history in Monroe County, he's well-known in Monroe County. I commend him for

this appointment. I think this is a good appointment by the Governor. But, this is a man who is a lawyer of compassion, and I think that's important in any capacity.

So, I stand to second that nomination and join the Senate in supporting Mr. Tomanovich's appointment.

ACTING PRESIDENT MEIER: Announce the results -- okay.

Milo Tomanovich is confirmed as a member of the Advisory Council to the Commission on the Quality of Care for the Mentally Disabled.

Secretary will read.

THE SECRETARY: As a member of the Mental Health Services Council, Patricia H. Ogden of White Plains.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of Patricia H. Ogden for a member of the Mental Health Services Council.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Patricia H. Ogden is confirmed as a member of the Mental Health Services Council.

Secretary will read.

THE SECRETARY: As a member of the Minority Health Council, Susan R. Bubbs of Olean and Malcom D. Reid.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of Susan R. Bubbs and Malcom D. Reid as members of the Minority Health Council.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Susan R. Bubbs and Malcom D. Reid are confirmed as members of the Minority Health Council.

Secretary will read.

THE SECRETARY: As Major General, New York Army National Guard, Thomas D. Kinley of Cape Elizabeth, Maine.

ACTING PRESIDENT MEIER: The question is on the confirmation of Thomas D. Kinley as a Major General, New York Army National Guard.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Thomas D. Kinley is confirmed as a Major General of the New York Army National Guard.

Secretary will read.

THE SECRETARY: As a member of the State Public Transportation Safety Board, Theodore Boluch, of Delmar.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of Theodore Boluch as a member of the State Public Transportation Safety Board.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Theodore Boluch is confirmed as a member of the State Public Transportation Safety Board.

The Secretary will read.

THE SECRETARY: As members of the Board of Visitors of the Agricultural and Industrial School at Industry, Philip A. Litteer of Rochester and James P. Mulley, Jr., of Webster.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

ACTING PRESIDENT MEIER: The question is on the confirmation of Philip A. Litteer and James P. Mulley, Jr., as members of the Board of Visitors of the Agriculture and Industrial School at Industry.

All in favor signify by saying -- I'm sorry, Senator Dollinger. I'm trying to

do two things and I'm not good at that.

SENATOR DOLLINGER: Mr. President, I just rise to speak in support of my friend, Phil Litteer, for appointment to the Board of Industry. I hope that doesn't disqualify him in some other members' eyes, but Phil Litteer is a friend of mine, he is a very unique individual.

Phil Litteer was the former supervisor of the town of Henrietta, which is actually in Senator Alesi's district. He served in that capacity as a Democrat. He then went to law school and it was shortly after law school that he became associated with me when he and I served in the same law firm together.

He's had a long history as a practicing lawyer, he's been very active in public service, he ran for District Attorney in Monroe County; I thought he ran a good campaign. He did not win. But, Phil Litteer really embodies someone who has been a top-notch lawyer, someone who has a long-term commitment to the highest ideals of public service.

And I commend the Governor for this appointment, it's a superb appointment, and

although you never know when somebody might end up actually running against you some day, I would commend Phil Litteer, he's a good man, he's a good lawyer and he'll be a solid contributor at the board of Industry, and I hope this is only part of the continuation of his public service and his contribution to the people of Monroe County.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the confirmation?

The question is on the confirmation of Philip A. Litteer and James P. Mulley, Jr., as members of the Board of Visitors of the Agriculture and Industrial School at Industry.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Philip A. Litteer and James P. Mulley, Jr., are confirmed as members of the Board of Visitors of the Agricultural and

Industrial School at Industry.

Secretary will read.

THE SECRETARY: As a member of the Board of Trustees of the State University of New York College of Environmental Science and Forestry, Edward J. Heinrich of Marcellus.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move the confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of Edward J. Heinrich, of Marcellus, as a member of the Board of Trustees of the State University of New York College of Environmental Science and Forestry.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Edward J. Heinrich is confirmed as a member of the Board of Trustees of the State University of New York College of Environmental Science and Forestry -- I'm sorry, Senator DeFrancisco.

SENATOR DeFRANCISCO: I rise to explain my vote.

I know Ed Heinrich, he's a friend, and I've known him for some time. He is the chief administrator for Bryant & Stratton in Syracuse and one of the finest individuals I've ever met.

He's involved in many areas of public service, and this is just an extension of his desire to help the education of youth and adults in our community.

On a lighter note, to show how important this position was in this fine institution, the State University College of Environmental Science and Forestry in Syracuse, that he came here at 1:00 o'clock for our session in order to be interviewed by the Education Committee and missed his 6:00 o'clock golf game, which is near and dear to his heart.

So, he's dedicated, he's a good person, and it's a fine nomination.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: As member of the Advisory Board on Public Work, Joseph R.

Lagana of West Nyack.

ACTING PRESIDENT MEIER: Senator Stafford -- Senator Holland.

SENATOR HOLLAND: I would like to just say a few words about my good friend, Joe Lagana. It seems like everybody is a great friend of somebody in this chamber today, but Joe and his wife are very active in the community, they have their own businesses, et cetera, and he helps as many community organizations as he possibly can.

He will be a great asset to the Advisory Board on Public Works, and I certainly recommend him.

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

(There was no response.)

The question is on the confirmation of Joseph R. Lagana as a member of the Advisory Board on Public Work.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Joseph Lagana is confirmed as a member of the Advisory Board on Public Work.

Secretary will read.

THE SECRETARY: As a member of the Small Business Advisory Board, Kevin M. O'Bryan of Troy.

ACTING PRESIDENT MEIER: The question is on the confirmation of Joseph M. O'Bryan as -- I'm sorry, is on the nomination of Kevin M. O'Bryan as a member of the Small Business Advisory Board.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: All those in favor of the confirmation signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Kevin M. O'Bryan is confirmed as a member of the Small Business Advisory Board.

Secretary will read.

THE SECRETARY: As a member

of the Metropolitan Transportation Authority, David Mack, of Kings Point.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of David Mack as a member of the Metropolitan Transportation Authority.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

David Mack is confirmed as a member of the Metropolitan Transportation Authority.

Senator Holland, that completes the nominations.

SENATOR HOLLAND: Can we have the Rules Committee report and can we have the reading of the Rules Committee report, Mr. President?

ACTING PRESIDENT MEIER:

Secretary will read.

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

Assembly Print 3221, by Member of the Assembly Sweeney, an act to amend the Election Law;

2593A, by Senator Velella, an act to amend the Executive Law;

4129A, by Senator Marcellino, an act authorizing the Commissioner of General Services;

Assembly Print 6049B, by Assemblyman Jacobs, an act to amend the Social Services Law;

Senate Print 5098A, by Senator Skelos, an act to amend the Real Property Tax Law;

4821A, by Senator Skelos, an act to amend the Civil Service Law;

1492, by Senator Velella, an act to amend Chapter 576 of the Laws of 1975;

3316A, by Senator Stachowski, an act to legalize, ratify and confirm;

3884, by Senator Volker, an

act to amend the Erie County Tax Act;

5570, by Senator Bruno, an act to amend the Tax Law;

5642A, by Senator Volker, an act to amend the Education Law;

5741, by the Committee on Rules, an act to amend the Social Services Law.

5769, by Senator Velella, an act to amend the Insurance Law;.

5770, by Senator Holland, an act to amend the Insurance Law;

5772, by Senator Trunzo, an act to amend the Executive Law;

and 5773, by the Committee on Rules, an act to amend the Public Health Law;

Assembly Print 8339, by the Committee on Rules, an act to amend the Tax Law;

5691, by Senator Volker, an act to amend the Penal Law; and

5380, by Senator Dollinger, an act to amend the Election Law.

All bills directly for third reading.

ACTING PRESIDENT MEIER: Senator Holland.

SENATOR HOLLAND: Can we have the noncontroversial reading of Supplemental Calendar 64A, please?

ACTING PRESIDENT MEIER: Senator, I believe a motion is in order to accept the report of the Rules Committee.

SENATOR HOLLAND: I'm sorry. I move we accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: The question is on the acceptance of the report of the Rules Committee.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

Secretary will read -- the Rules report is accepted.

Senator Holland.

SENATOR HOLLAND: Now could we have the noncontroversial reading of Supplemental Calendar 64A, please?

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 332, by Member of the Assembly Sweeney, Assembly Print 3221, an act to amend the Election 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 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 617, by Senator Velella, Senate Print 2593A, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the

roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 787, by Senator Marcellino, Senate Print 4129A, an act to authorize the Commissioner of General Services to transfer and convey certain state lands.

ACTING PRESIDENT MEIER: 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 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 839, by Member of the Assembly Jacobs, Assembly Print 6049B, an act to amend the Social Services 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 56.

ACTING PRESIDENT MEIER: The bill is passed

THE SECRETARY: Calendar Number 1369, by Senator Skelos, Senate Print 5098A, 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 January 1st.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1453, by Senator Skelos, Senate Print 4821A, an act to amend the Civil Service 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 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1576, by Senator Velella -

SENATOR STAVISKY: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1581, Senator Stachowski moves to discharge from the Committee on Rules Assembly Print 6002A and substitute it for the identical Senate bill, Third Reading 1581.

ACTING PRESIDENT MEIER: Substitution ordered.

Secretary will read.

THE SECRETARY: Calendar Number 1581, by Member of the Assembly Wirth, Assembly Print 3316A, an act to legalize, ratify and confirm the acts and proceedings of the board of education.

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 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar 1588, Senator Volker moves to discharge from the Committee on Rules Assembly Print 6587A and substitute it for the identical Senate bill, Third Reading 1588.

ACTING PRESIDENT MEIER:

Substitution ordered.

Read the last section.

THE SECRETARY: Calendar Number 1588, by Member of the Assembly Hoyt, Assembly Print 6587A, an act to amend the Erie County Tax Act.

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 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1589, by Senator Bruno, Senate Print 5570, an act to amend the Tax Law, in relation to extending it.

ACTING PRESIDENT MEIER: 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 54, nays 2, Senators Dollinger and Gentile recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1590, by Senator Volker, Senate Print 5642A.

ACTING PRESIDENT MEIER: This bill is high, and it will be laid aside.

THE SECRETARY: Calendar Number 1591, by the Committee on Rules, Senate Print 5741, an act to amend the Social Services Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1592, by Senator Velella, Senate Print 5769, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section -- wait, wait.

SENATOR HOLLAND: Move that we accept the message, please.

ACTING PRESIDENT MEIER: There is a message of necessity at the desk. All in favoring of accepting the message signify by saying "Aye."

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message of necessity is accepted.

Read the last section.

THE SECRETARY: Section 16. This act shall take effect in 120 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1593, by Senator Holland, Senate Print

5770, an act to amend the Insurance Law.

SENATOR HOLLAND: Is there a message at the desk?

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR HOLLAND: Move that we accept the message.

ACTING PRESIDENT MEIER: All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message of necessity is accepted.

Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the same day as a chapter of the laws of 1997.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1594, by Senator Trunzo, Senate Print 5772, an act to amend the Executive Law.

SENATOR HOLLAND: Move we accept the message.

ACTING PRESIDENT MEIER: The motion is to accept the message of necessity.

All in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted.

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 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1595, by Committee on Rules, Senate Print

5773, an act to amend the Public Health Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1596, by the Assembly Committee on Rules, Assembly Print 8339, an act to amend the Tax Law and Chapter 535 of the Laws of 1987.

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: Those recorded in the negative on Calendar 1596 are Senators Dollinger, Gentile and Saland. Ayes 53, nays 3.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar 1597, by Senator Volker, Senate Print 5691, an

act to amend the Penal Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1598, by Senator Dollinger, Senate Print 5380, an act to amend the Election 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 56.

ACTING PRESIDENT MEIER: The bill is passed.

ACTING PRESIDENT MEIER: Senator Holland, that completes the reading of the noncontroversial calendar.

SENATOR HOLLAND: Mr. President, can we do the controversial calendar, please?

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar 1576, by Senator Velella, Senate Print 1492, an act to amend Chapter 576 of the Laws of 1975.

ACTING PRESIDENT MEIER: Senator Velella, an explanation has been requested of Calendar Number 1576.

SENATOR VELELLA: This is a bill that we've passed several times and hopefully the Assembly will pass this year. It would add the following medical schools to the list of approved out-of-state schools with which the Commissioner of Education can enter into a contract in order to provide New York State residents with expanded opportunities to study medicine and dentistry.

The three universities or schools that would be added would be the University of Padua in Padua, Italy; the Royal College of Surgeons in Dublin, Ireland; and St. George's University School of Medicine in Grenada.

ACTING PRESIDENT MEIER: Senator Stavisky.

SENATOR STAVISKY: Mr. President, I have had occasion to visit Grenada and I have observed the total lack of clinical facilities available in that institution.

We have debated this bill in the past; it has never passed the Assembly and has been signed into law by the Governor.

I maintain that the lack of professional facilities here at Grenada is a serious oversight and we should not be authorizing or even directing the Commissioner of Education to make a finding that what is good is not good, and vice versa.

I think that when I visited Grenada and the school, I was impressed by the fact that it was on the beach and so I would recommend that we authorize the Commissioner of Education to recognize beach bingo, to recognize the lack of facilities at this institution and to avoid meddling in the affairs of the State Education Commissioner.

We should not be authorizing this bill to convey upon this institution the imprimatur of competency in a field for which I saw no evidence of competency.

Yes, if there was to be a degree in beach barbecues, I would recommend that this institution be directed to offer a degree in beach barbecues. The dean appeared miraculously and there were volley ball sessions and other casual demonstrations but no evidence that this was an institution that we in the Legislature should mandate as suitable for recognition.

There are occasions -- because we do have a shortage of medical school facilities in certain parts of New York State, there are occasions when we do invite the Commissioner of Education to recognize a meritorious situation, but this is not the case here. And I would suggest that we hold this bill, perhaps exclude the Grenada institution and then take up the others on their merits.

Thank you.

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: Those recorded in the negative on Calendar 1576: Senators Breslin, Connor, Gentile, Hoffmann, Kruger, Marcellino, Markowitz, Montgomery, Sampson, Skelos, Smith, Stachowski and Stavisky, also Senator Hannon.

Ayes 43, nays 14.

ACTING PRESIDENT MEIER: The bill is passed.

Secretary will read.

SENATOR HOLLAND: Mr. President.

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

SENATOR MONTGOMERY: Yes, Mr. President. May I have unanimous consent to be recorded in the negative on Calendar 617?

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative on Calendar 617.

Senator Holland.

SENATOR HOLLAND: Mr. President, can we lay side for the day 1591, lay

aside temporarily 1595, and go on to 1597, please?

ACTING PRESIDENT MEIER: So ordered.

Secretary will read.

THE SECRETARY: Calendar Number 1597, by Senator Volker, Senate Print 5691, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section -- an explanation, Senator Volker, has been requested for Calendar Number 1597.

SENATOR VOLKER: This bill is the most comprehensive reform of the sexual assault area that I've seen, as I said, in the Rules Committee since I've been chairman of Codes, without question, which is about ten years, I guess.

This bill takes and goes through innumerable provisions of the Penal Law and makes conforming changes to various areas of the sex offense areas.

Let me just explain, for instance, two areas of the law that this bill would change: One area is the area called the

marital or gender exemption in rape, which was declared to be unconstitutional by the People versus LaVerda case several years ago.

What this bill would do would be to strike it out of the Penal Law. What that means is that there has been a provision in the Penal Law that says that, in effect, that a husband or wife cannot be guilty of a sex offense of rape or a sex offense while in the marriage. That provision essentially has been declared unconstitutional but remained in the Penal Law; this bill would eliminate it.

Another area is the area of consensual sodomy, which has been declared unconstitutional in several court cases. This bill would eliminate it from the Penal Law. In other words, it eliminates a series of areas that are in the Penal Law but which really have virtually no effect because they have been declared to be unconstitutional.

It then takes up, though, and makes conforming changes in a series of areas involving rape and, in all honesty, brings, I think, up-to-date changes in language, in some cases; it does make some changes upgrading

penalties; but primarily, I think, it makes changes in the languages to make it easier to deal with the number of these sex offenses cases which have been challenged over the years and which the language has become somewhat outmoded.

As I said to Senator Leichter, there is one provision in here that does not apply just to sex offenses, I'd be the first to admit. It's passed this house on several occasions over the last decade, I think -- I can't remember, I think sponsored by Senator Maltese and I believe Senator Padavan, which would allow District Attorneys to appeal bail and sentencing, not just for sex offenses, but for any crimes that are committed.

And I'd be the first to admit to you that it's very -- it's controversial. It is the only provision I can see in here that does not just apply to sex offenses, but that is more than just sex offenses.

There is also a provision in here relating to the so-called date rape situation, which this house just passed here about a month ago, a bill that I sponsored, dealing with the so-called date rape drug, which

is Rohypnol, and another drug, very similar, called ketamine, which has also been used and is -- has been designated as a drug, it's used to rape young girls particularly, and women, and particularly, frankly, in colleges throughout the state. The upgrading of that statute is in here, the penalties have been increased, and so forth.

So, that, basically -- as I say, this is a very comprehensive reform of sexual assault statutes that I think, frankly, will form the basis for negotiations, hopefully, with the Assembly in a very short time.

ACTING PRESIDENT MEIER: Senator Gentile.

SENATOR GENTILE: If Senator Hoffmann wants to ask a question, that's fine, because I have a statement, not a question. I will yield at the moment.

ACTING PRESIDENT MEIER: Senator Hoffman.

SENATOR HOFFMANN: Thank you, Senator Gentile.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: Senator Volker, I would -- I have a couple of brief questions. I want to compliment you, first of all, on the enormous scope of this measure. Can you tell me if there is a companion to this bill in the Assembly?

SENATOR VOLKER: Let me just say, by the way, I think I forgot -- before I - I think I forgot to mention as we were going along, this is a Governor's program bill and it is not technically my bill.

As I said in the Rules Committee, we have passed legislation -- a number of the provisions that are in this bill have been reported by our committee, not only my bills, but actually other members of the committee, have been reported out and passed in this house and also in the Assembly, that is, various versions of it.

So, the answer is this is a Governor's program bill, and I want to make that very, very clear, that that's where this came from. As far as the other house is concerned, I'm not aware of a sponsor in the other house.

Frankly, this bill bears a

July 9th introduction date, and it came quite late in the process.

SENATOR HOFFMANN: Thank you, Senator Volker.

I would just like to note for the record without delaying our proceedings that I really don't understand why we would be taking our time now when we're supposed to be working on a budget here that it's already August to pass one-house bills which amount to basically political propaganda.

This bill has the names of every Republican member of this Senate as a sponsor on it. It's something that the Governor and his political party have decided that they would like to have in the form of a press release and an election vehicle, I guess, and it troubles me because within this bill I know that there are many very laudable intents and I feel some frustration for Senator Volker who has already worked in this area on many fronts, as have other members of this house.

This is one of those examples of how to do everything wrong in government. Most of these provisions would probably be

enacted into law, could be discussed and voted upon in the assorted committees; and the intelligent members of this house and the other house are capable, given the opportunity, in a reasonable, functioning, legislative structure, of enacting the measures which Senator Volker has just explained today.

And I deeply regret that I have to go back to my constituents and say yes, we had a bill that came before us, but unfortunately, it's worth only what the paper it's printed on is worth, because it did not go through any kind of meaningful process that could remotely be considered deliberative and as a Democrat, I'm troubled that there was no courtesy offered to other members of this house in sponsorship; that is not Senator Volker's fault. The rules of this house have led to this type of scenario repeatedly, and it seems particularly sad that when the taxpayers of the state expect us to be addressing the issues of financing this state, that we would instead be wasting their time, as well as our own, and at the same time building false hopes that we are doing something meaningful when it is purely a

political ploy to prey on people's fears and deepest concerns.

ACTING PRESIDENT MEIER: Senator Gentile.

SENATOR GENTILE: Thank you, Mr. President. I echo the sentiments of Senator Hoffmann as to the process here dealing with this bill. It would have been better if we all had a chance to deliberate on this matter so that we could have our input. Having a bill of this type, of this magnitude at this late date makes it somewhat, at least for the members who did not get to deliberate on this, a cumbersome matter to read through the entire bill.

I must say, from what I've seen on the bill, I have to say, at the same time, despite the process that brought it here at this late date, that it appears from a prosecutor's viewpoint, a step in the right direction as to sexual assaults, and having been a prosecutor for 11 years prior to joining this august body, I have to say, four of those - five of those 11 years were spent dealing with sexual assaults and sex crimes.

And I have to say, the items

here that are dealt with deal with many of the frustrations that prosecutors deal with in prosecuting sex crimes, appealing bail decisions and sentences, bail decisions, particularly, in sex crimes cases, especially where the victim and a defendant are known to each other - sentences less so, but particularly bail decisions. Prior bad acts at trial where, under this bill, they would be presumptively included, prior bad acts in the sexual assault regime would be included here as opposed to being presumptively excluded as they are now.

It's highly frustrating for a prosecutor, knowing the criminal history in the sexual assault area of a defendant, not to be able to present a picture to the jury, a true picture to the jury of the type of person that they are now asked to pass judgment on.

This bill would ameliorate that and change that to make those prior bad acts in sexual assault part of a prosecutor's evidence in chief.

Also lowering the age of a child presumptively able to give testimony from 12 to nine. I've put on the stand children as

young as six years old and have qualified them to take the oath in a court of law. But it is a long and cumbersome process in order to get that done, and it's also traumatic for the child to go through that process. So, anything that lowers the age, especially in the area of 12 to nine years old, lowering it to nine, is a good thing.

This is a good bill. It's a bad process, it's a good bill, and I think it's a step in the right direction for the prosecutors of this state in the area of sexual assault, so I will support it, Mr. President.

ACTING PRESIDENT MEIER: Read the last section -- I'm sorry, Senator Volker.

SENATOR VOLKER: Yes, let me just finish here, if I might.

I understand what has been said here, but let me make something very clear. I don't -- I think you can make an argument that it certainly is late in the process of the budget process, and so forth, but I have a suspicion that this bill -- you have not seen the last of this bill as far as this year is concerned.

And I must say to you that it is, I think, and I have been around for a few years, an important step in what we have been attempting to do and that is to deal with a series of sex offense areas during this year, and actually last year; and I think it is the most comprehensive, as I said previously, categorization of reform in the whole sex offense area.

And the only problem, I guess, with the argument that we shouldn't be dealing with it this late in the year is it seems whether we like it or not, that we sometimes have some trouble getting attention in certain issues unless we pass them in a house; and what we're doing today is passing this in this house.

And I can assure you that I am not going to allow this bill just to be passed by this house, I intend to do whatever I can to see that something substantial is done before this year is over with.

ACTING PRESIDENT MEIER: Senator Abate.

SENATOR ABATE: Yes, would Senator Volker yield to a question?

SENATOR VOLKER: Sure.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR ABATE: There are many things in this bill that many of us have fought long and hard for and they make a lot of sense. I just want to reiterate what some of my colleagues have said, before I ask a question, is that I would say 95 percent of this bill, most people would support, there are few - there's one piece or two, that may be controversial and the language that has to be worked out, but I applaud you, Senator, making -- eliminating the statute which makes consensual sodomy a crime; many people have talked about that. Eliminating the marital exemption, the DNA, increasing the length of probation for sex offenders, I could go on and on. These are things long overdue and should be enacted.

I would like to ask you just a couple questions about two of the provisions, one that calls for an increase of the imposition of the mandatory minimum prison term for second offenders. We are talking about second violent

felony fenders, it's VFOs?

SENATOR VOLKER: Yes, VFOs.

SENATOR ABATE: Or just felony fenders, I don't have the language of the bill here.

SENATOR VOLKER: No, these are VFOs. And by the way, that's a provision that we, I believe, have already passed in this house.

SENATOR ABATE: I just wanted to make sure this was any different.

SENATOR VOLKER: No.

SENATOR ABATE: We're not talking someone who's convicted of a misdemeanor -

SENATOR VOLKER: No, no absolutely not.

SENATOR ABATE: -- and is a second child offense?

SENATOR VOLKER: No, these are VFOs.

SENATOR ABATE: VFOs?

SENATOR VOLKER: Right.

SENATOR ABATE: And my second question is allowing the use of a prior bad act.

If someone is charged with a rape or another - or sodomy, what is allowable under this language is only a prior bad act that is similar? For instance, if it's a prior bad act of robbery, prior bad act of some other crime, would that be admissible under this statute, or would it have to relate to the instant charge?

SENATOR VOLKER: That's a very good question. We're not exactly sure. If my recollection is correct and, in all candor, on that one, my recollection is that all the increases in penalties related to sex offense to sex offense, because the intention of this bill was strictly to deal with areas of persons who were repeat offenders, in particular, of violent sex offenses.

So, the answer to that is, and although we will double-check that, I believe that the answer is that these are only sex offense to sex offense, in other words. A violent second felony offender is the bad act that we're talking about that would trip the increase in the penalties.

SENATOR ABATE: Otherwise, Senator, I don't know whether you agree, then,

the prejudicial value would probably outweigh the probative value -

SENATOR VOLKER: Right, correct.

SENATOR ABATE: -- if it went beyond the sex offense -

SENATOR VOLKER: I agree with that.

SENATOR ABATE: -- the prior bad act deal?

SENATOR VOLKER: I agree with that.

SENATOR ABATE: Those are the two points I wanted clarified.

SENATOR VOLKER: Okay.

SENATOR ABATE: Thank you.

SENATOR VOLKER: Sure.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 46. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Larkin.

SENATOR LARKIN: At this time, we're going to recess for 45 minutes, come back at 7:00 o'clock, and we will then take up Calendar Number 1595.

ACTING PRESIDENT MEIER: The Senate will stand in recess until -- I'm sorry, Senator Mendez.

SENATOR MENDEZ: Yes. There will be an immediate conference of the Minority, Conference Room 314.

ACTING PRESIDENT MEIER: Immediate conference of the Minority in Room 314.

Senator Larkin.

SENATOR LARKIN: There will be an immediate meeting, conference, of the Majority in Room 332, Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate meeting of the Majority.

Would the Senators stay in their seats for one moment?

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President.

ACTING PRESIDENT MEIER: Wait a minute. Senator Montgomery, would you hold a minute?

Can we have some order in the house, please?

Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I wish to call up my bill, Print Number 5374A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: By Senator Montgomery, Senate Print 5374A, an act to amend the Agriculture and Markets Law.

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

ACTING PRESIDENT MEIER: Call

the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 56.

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

ACTING PRESIDENT MEIER: Amendments received.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I wish to call up, on behalf of Senator Marcellino, Senate Print 5400, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: By Senator Marcellino, Senate Print 5400, an act to amend the Public Service Law.

SENATOR FARLEY: I now move to reconsider the vote by which this bill passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MEIER: Amendments received.

Senator Larkin, is there any more business?

(There was no response.)

Senate will stand in recess until 7 p.m.

(The Senate recessed from 6:21 p.m. to 7:55 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1304, Senate 5400A, by Senator Marcellino.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1304, Senate Print 5400A, by Senator Marcellino, an act to amend the Public Service Law.

SENATOR SKELOS: Would you

lay that bill aside temporarily?

ACTING PRESIDENT MEIER: The bill will be laid aside temporarily.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Would you call up Calendar 1595, Senate 5773, please?

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1595, by the Committee on Rules, Senate Print 5773, an act to amend the Public Health Law.

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

ACTING PRESIDENT MEIER: There is a message at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: Motion is to accept the message of necessity.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message of necessity is accepted.

SENATOR SKELOS: Read the last section, please.

SENATOR DOLLINGER: Could I have an explanation, just briefly?

SENATOR SKELOS: Oh, you want an explanation. I'm sorry.

ACTING PRESIDENT MEIER: Senator Hannon.

SENATOR HANNON: This legislation is that part of the budget which would be called the Article VII provisions in regard to Medicaid. It's probably not a complete explanation because you need the appropriation bill for the departments, in addition, but it does a number of things, along with the appropriation bill, in a sense of restoring about $680 million of what had been an $800 million proposed Medicaid reduction. We continue any reductions through two fiscal years.

There are really no new cuts to hospitals. There are rate change formulas for nursing homes which I think are equitable, and there are adjustments for -- to the tune of 20 million for Medicaid managed care providers, something that is -- can be done now that we have a waiver from the federal government and have a clear-cut picture of how we're going to move forward with our Medicaid population.

SENATOR DOLLINGER: Would the sponsor yield to just one question?

ACTING PRESIDENT MEIER: Senator yield for a question?

SENATOR HANNON: Yes.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR DOLLINGER: I've had an opportunity to discuss with the chairman of the Health Committee the issues related to Medicaid managed care.

Could you give us a breakdown of what those improvements to the $20 million increase in Medicaid managed care would mean to the system from a global perspective and then perhaps some sense about how the money would be

disbursed?

As you know, Mr. Chairman, I'm particularly concerned about the Medicaid managed care program in Monroe County. The Monroe plan, I believe the longest-standing Medicaid managed care program exclusively for Medicaid patients, they've had tremendous difficulty because of declining rates.

Could you just give us some sense of how you think -- first of all, what factually will happen with respect to adjustments, and then what does this have on the future of Medicaid managed care?

SENATOR HANNON: First of all, we're not totally sure of the future because I think we're entering into a whole new era. With the waiver, we will be doing managed care for about two-thirds of the state's Medicaid recipients. We're going to be replacing a fee-for-service system with a managed care system. We're going to be looking carefully at how the delivery is done to make sure people get good care. We also have concerns about capacity, so that as we get into this on a very carefully phased-in basis, we're

going to be reaching new territory each point of the way.

For the time being, we have the fact that there are 31 counties that have Medicaid managed care, that's going to go forward right away because of a 1995 procurement process which was one of these negotiated bidding processes that many people feel did not provide enough money.

In the bill we give $20 million in three ways: We give $7 million for those providers whose rates were proved to be too low through the competitive bidding process, and that is retroactive to January 1, 1997.

In addition, we will provide an additional $10 million for all Medicaid managed care producers who participate in the procurement. And, in addition, at the -- we have $3 million provided for plans and regions with insufficient capacity to meet the enrollment goals.

SENATOR DOLLINGER: The explanation is satisfactory. Mr. President, just on the bill, briefly.

I commend the chairman of the

Health Committee and our colleagues in the Senate because I know that the issue of reduction in assessments paid by nursing homes and hospitals under the assessment plan was a major priority. It appears as though we have begun to chip away at those assessments and bring -- hopefully bring those assessments down so that we'll reduce the overall costs to our hospital and nursing home population.

I also think this is a good bill because the $20 million, as the chairman of the Health Committee describes it, will provide additional resources to communities that have been underfunded for Medicaid managed care.

I agree with the chairman of the Health Committee that as we continue to evolve this system under the waiver, we're going to have to look to making sure that the plans that got in early in the process, that invested early and heavily in Medicaid managed care have the sufficiency and the sustainability to be able to compete as the managed care system goes forward.

I think it would be a great disservice if we, in essence, because of low

long-term rates, ended up fiscally punishing the Medicaid managed care systems that have been around for a long time, such as the Monroe plan in Rochester.

So, I think this is a good bill. As those who have been watching know, I have not voted for many budget bills; I'm going to vote for this one because I think this makes some very good improvements. It continues us down the road to slightly tinker with the periphery with our health care system to make sure that we don't end up with a two-tier health system for those who can afford it and those who can't, and I think this is a step in the right direction to creating a universal system that is high quality for all. We've got more to do, but this is a good step in the right direction.

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 57.

ACTING PRESIDENT MEIER: The bill is passed.

ACTING PRESIDENT MEIER: Senator Skelos?

SENATOR SKELOS: Mr. President, 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.

Senate will stand at ease - Senator Holland.

SENATOR HOLLAND: Mr. President, can we take up Calendar 1304, Senate bill number 5400A. I think everybody has a copy at their desk. No?

ACTING PRESIDENT MEIER: I'm sorry, Senator Holland. The Secretary just informs me the bill is not at the desk -- I'm sorry. The Secretary states the jacket is not at the desk; the bill is.

We can take that up in about two minutes, I believe it will be here.

SENATOR HOLLAND: Thank you.

ACTING PRESIDENT MEIER: The Senate will stand at ease for a couple of minutes.

(The Senate stood at ease from 8:04 p.m. to 8:07 p.m.)

Senator Holland.

SENATOR HOLLAND: Mr. President, if we can take up Senate bill Number 5400A, which I understand has been distributed to everybody, including the desk.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1304, by Senator Marcellino, Senate Print 5400A, an act to amend the Public Service Law.

ACTING PRESIDENT MEIER: Senator Holland, there is a message of necessity at the desk.

SENATOR HOLLAND: Message of necessity at the desk? Move we accept the message.

ACTING PRESIDENT MEIER: Motion is to accept the message of necessity.

All those in favor signify by

saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message of necessity is accepted.

SENATOR HOLLAND: Mr. President, we have a request from the Minority that Senator Leichter would like to debate the bill and he is in Rules. Can we just lay the bill aside until he returns, please?

ACTING PRESIDENT MEIER: Lay the bill aside.

(The Senate stood at ease from 8:09 p.m. to 8:25 p.m.)

ACTING PRESIDENT MEIER: Senator Holland.

SENATOR HOLLAND: Mr. President, Senator Leichter is here. Can we resume the discussion on Calendar 1304, please?

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1304, by Senator Marcellino, Senate Print 5400A, an act to amend the Public Service Law.

ACTING PRESIDENT MEIER:

Senator Leichter?

SENATOR LEICHTER:

Explanation, please.

ACTING PRESIDENT MEIER:

Senator Marcellino, an explanation has been requested by Senator Leichter.

SENATOR MARCELLINO: Thank you, Mr. President.

Mr. President, this legislation requires utilities to allow a certain number of their residential customers to use net metering to get the most out of the residential solar generating systems. This legislation also provides an income tax credit for eligible equipment costs.

Net energy metering for eligible customer generators is one way to encourage private investment in renewable energy resources, stimulate in-state economic growth, enhance the continued diversification of the state's energy resource mix, and provide consumers a cost-effective choice.

This bill has passed this house on two other occasions unanimously -- I'm

sorry, with one negative vote, unanimously the last time and previously, in the previous year, in a slightly different version, with one negative vote.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Senator Marcellino, Senator, I do remember that we did the bill. Is this the exact same bill that we did before, or are there some changes in this?

SENATOR MARCELLINO: There are some minor language changes that were requested by the other house and we're accommodating them.

SENATOR LEICHTER: Could you tell us what those are?

SENATOR MARCELLINO: Yes. Senator, apparently -- through you, Mr. President -- there were four changes to what was Senate 5400. Essentially, on line -- page 2, line 5, the sentence starts on line 4, it says, "Net energy meter means a nondemand, nontimed differentiated meter that measures as it was - as originally that was registered," and a little ways down where the word "register" is, "is used to measure" is what was there before.

There's another line where the word "section" was changed to "act", and the word "single" was deleted some place in the bill, and I think there was a comma moved. Those are literally the changes, Senator.

SENATOR LEICHTER: Let me just ask you, really get at the heart of it, what essentially you provide, if I'm correct, is a tax credit for expenditures in connection with this solar electrical generating equipment. Is there any limit as to the amount of the credit?

SENATOR MARCELLINO: Yes, there's a cap on that of up to $3,750 dollars.

SENATOR LEICHTER: And is that annually or is that a one-time cap?

SENATOR MARCELLINO: One-time.

SENATOR LEICHTER: Okay. Thank you.

SENATOR MARCELLINO: Thank you.

ACTING PRESIDENT MEIER: Read the last section.

There is a message of necessity already at the desk. Read the last section -- and it's been approved.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Holland.

SENATOR HOLLAND: Is there any housekeeping, Mr. President?

ACTING PRESIDENT MEIER: No, Senator Holland, there is none at the desk.

SENATOR HOLLAND: Could we return to reports of standing committees and do the Rules Committee, please, just the report?

ACTING PRESIDENT MEIER: Secretary will read.

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

Senate Print 2461A, by Senator Holland, an act to amend the Education Law;

2917, by Senator Nanula, an

act to amend the Local Finance Law;

3550B, by Senator Spano, an act to amend the Labor Law;

4025, by Senator Larkin, an act to amend the Racing, Pari-mutuel Wagering and Breeding Law;

4838, by Senator Velella, an act to amend the Administrative Code of the City of New York;

4903, by Senator Trunzo, an act to amend the Education Law;

4908, by Senator Trunzo, an act to amend the Education Law;

5205A, by Senator Goodman, an act to amend the Taxpayer Bill of Rights Act of 1997;

5387A, by Senator Hannon, an act to amend the Public Health Law;

5405B, by Senator Spano, an act to amend the Retirement and Social Security Law;

5506, by the Committee on Rules, an act in relation to granting Tier I retirement status;

5518A, by Senator Marchi, an

act to amend the Highway Law;

5690A, by Senator Hannon, an act in relation to persons who may practice;

5701, by Senator Trunzo, an act to amend the Retirement and Social Security Law;

5727, by the Committee on Rules, an act to amend the Public Authorities Law;

5734, by Senator Maziarz, an act to amend Chapter 41 of the Laws of 1997;

5736, by Senator Spano, an act to amend the Retirement and Social Security Law;

5743, by Senator Meier, an act to amend the Alcoholic Beverage Control Law;

and 5778, by the Committee on Rules, an act to amend the Racing, Pari-mutuel Wagering and Breeding Law.

All bills directly for third reading.

ACTING PRESIDENT MEIER: Senator Holland.

SENATOR HOLLAND: Move we accept the report of the Rules Committee, please.

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

(Response of "Aye.")

Opposed nay.

(There was no response.)

The report of the Rules Committee is accepted.

Senator Holland.

SENATOR HOLLAND: Since the agenda and bills are not on the desk yet, can we stand at ease until they are here, please, Mr. President?

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(The Senate stood at ease from 8:31 p.m. to 8:48 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, all the bills that were reported from the Rules Committee are now on the desks. There's a technical problem with the printing of the calendar. What we're going to do is make the Assembly substitutions, take up those bills

individually, and then by then the calendar should be printed for the balance of the bills.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: In relation to Calendar Number 1600, Senator Nanula moves to discharge from the Committee on Rules, Assembly Print 4914 and substitute it for the identical Senate bill, Third Reading 1600.

ACTING PRESIDENT MEIER: The substitution is ordered.

Secretary will read.

THE SECRETARY: Calendar Number 1600, by Member of the Assembly Pillittere, Assembly Print 4941, an act to amend the Local Finance Law.

ACTING PRESIDENT MEIER: There is a home rule message at the desk. 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 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar 1601, Senator Spano moves to discharge from the Committee on Rules, Assembly Print 6394B and substitute it for the identical Senate bill, Third Reading 1601.

ACTING PRESIDENT MEIER: Substitution is ordered.

Secretary will read.

THE SECRETARY: Calendar Number 1601, by Member of the Assembly Nolan, Assembly Print 6394B, an act to amend the Labor Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The

bill is passed.

THE SECRETARY: Calendar Number 1602, Senator Larkin moves to discharge from the Committee on Racing, Wagering and Gaming, Assembly Print 6685 and substitute it for the identical Senate bill, Third Reading 1602.

SENATOR SKELOS: Would you lay that bill aside, please?

ACTING PRESIDENT MEIER: Substitution is ordered. Lay the bill aside.

THE SECRETARY: Calendar Number 1603, Senator Velella moves to discharge from the Committee on Rules, Assembly Print 8127 and substitute it for the identical Senate bill, Third Reading 1603.

ACTING PRESIDENT MEIER: Substitution is ordered. There is a home rule message at the desk.

Secretary will read.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1604, Senator Trunzo moves to discharge from the Committee on Rules, Assembly Print 6324 and substitute it for the identical Senate bill 1604.

ACTING PRESIDENT MEIER: Substitution is ordered. Secretary will read.

THE SECRETARY: Calendar Number 1604 by Member of the Assembly Vitaliano, Assembly Print 6324, an act to amend the Education 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 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1608, Senator Marchi moves to discharge from the Committee on Rules, Assembly Print 8080A and substitute it for the identical Senate bill, Third Reading 1608.

ACTING PRESIDENT MEIER: Substitution is ordered. Secretary will read.

THE SECRETARY: Calendar Number 1608, by the Committee on Rules, Assembly Print 8080A, an act to amend the Highway 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 57.

ACTING PRESIDENT MEIER: The bill is passed.

Secretary will read.

THE SECRETARY: Calendar

Number 1610, Senator Trunzo moves to discharge from the Committee on Rules, Assembly Print Number 8425 and substitute it for the identical Senate bill, Third Reading 1610.

ACTING PRESIDENT MEIER: Substitution is ordered. Secretary will read.

Home rule message is at the desk.

THE SECRETARY: Calendar 1610, by the Committee on Rules, Assembly Print 8425, an act to amend the Retirement and Social Security 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 57.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR SKELOS: Mr. President, is there any housekeeping at the

desk?

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

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. On behalf of Senator Bruno, I wish to call up his bill, Print Number 3, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 485, by Senator Bruno, Senate Print 3, an act to amend the Education Law.

SENATOR MARCELLINO: Mr. 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 57.

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

ACTING PRESIDENT MEIER: Amendments received.

SENATOR MARCELLINO: Thank you.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Would you please take up Senate Supplemental Calendar 64B, noncontroversial?

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1256, by Senator Spano, Senate Print 5405B, an act to amend the Retirement and Social Security 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 57.

ACTING PRESIDENT MEIER: The

bill is passed.

SENATOR DOLLINGER: Which Calendar Number was that?

ACTING PRESIDENT MEIER: Senator Dollinger -- oh, the calendar number, Calendar Number 1256, Supplemental Calendar 64B.

SENATOR DOLLINGER: Thank you very much.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number 1379, by the Committee on Rules, Senate Print 5506, an act in relation to granting Tier 1 retirement status.

ACTING PRESIDENT MEIER: 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 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Dollinger

THE SECRETARY: Excuse me. Ayes 56, nays 1, Senator Dollinger recorded in the negative.

Calendar 1599 by Senator Holland, Senate Print 2461A, an act to amend the Education 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 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1605, by Senator Trunzo, Senate Print 4908, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1606, by Senator Goodman, Senate Print 5205A, an act to enact the Taxpayer Bill of Rights Act of 1997.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 56. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1607, by Senator Hannon, Senate Print 5387A, an act to amend the Public Health Law.

SENATOR SKELOS: Is there a message at the desk? Move to accept.

ACTING PRESIDENT MEIER: Yes, Senator Skelos, there is a message at the desk.

SENATOR SKELOS: Move to accept, please.

ACTING PRESIDENT MEIER: Motion to move to accept the message of necessity.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message of necessity is accepted.

Read the last section.

THE SECRETARY: Section 15. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The

bill is passed.

ACTING PRESIDENT MEIER:

Senator Padavan.

SENATOR PADAVAN: Mr. President, I would like to be recorded by unanimous consent in the negative on Calendar Number 1601, Senate Bill 3550B.

ACTING PRESIDENT MEIER:

Without objection, Senator Padavan will be recorded in the negative on Calendar 1601.

Senator Tully.

SENATOR TULLY: Without objection, I would like to be recorded in the negative on Calendar Number 1601.

ACTING PRESIDENT MEIER:

Without objection, Senator Tully will be - Senator Tully, that bill has been laid aside.

Senator Markowitz.

SENATOR MARKOWITZ: Yes. I would like to have unanimous approval to be recorded in the affirmative on Calendar 1576.

ACTING PRESIDENT MEIER:

Without objection, Senator Markowitz will be recorded in the affirmative on Calendar Number 1576.

Senator Rath.

SENATOR RATH: Mr. President, I would like to request unanimous consent to be recorded in the negative on Calendar 1601.

ACTING PRESIDENT MEIER: Without objection, Senator Rath will be recorded in the negative on Calendar 1601.

SENATOR FARLEY: 1601.

ACTING PRESIDENT MEIER: Also Senator Farley, without objection, will be recorded in the negative on Calendar 1601.

THE SECRETARY: Calendar Number 1609, by Senator Hannon, Senate Print 5690A, an act in relation to persons.

ACTING PRESIDENT MEIER: The bill is high, it will be laid aside.

THE SECRETARY: Calendar Number 1611, by the Committee on Rules, Senate Print 5727, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: 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 -

SENATOR OPPENHEIMER: I would like to explain my vote.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: In areas that are bordering the New York State Thruway, almost all of the mayors and the government officials in those areas have come out against this bill, which would require them to provide fire protection and emergency services on the Thruway.

The local areas through which the Thruway passes are all covered by existing what's called certificates of need and they are issued by the State Department of Health to emergency service providers to ensure that there exists adequate emergency coverage in every locality in the state, and these emergency service providers holding this certificate of need for a particular area is obligated by law to provide timely EMS coverage or must have

standing agreements to refer the request to the closest provider with resources that are available to respond to the emergency.

It's the responsibility of the EMS provider holding this certificate of need to provide the service and that includes the lands in the Thruway system. And while some areas of the state volunteer ambulance corps have experienced some manpower shortages, and there are occasional delays because of the severe shortages, the provider really retains the obligation to provide this service or to arrange a backup service.

They feel that they can take care of this issue. They have been taking care of this problem for many years, and they do not want the situation changed.

So, I have a memo from the Conference of Mayors and Municipal Officials and they are saying this is simply another unfunded mandate by state government. So, I will be voting no in support of the localities' officials who say they don't want yet another unfunded mandate.

ACTING PRESIDENT MEIER:

Senator Oppenheimer will be recorded in the negative.

Senator Dollinger recorded in the negative.

THE SECRETARY: Those recorded in the negative on Calendar 1611: Senator DeFrancisco, Senators Dollinger, Farley, Maziarz, Meier, Oppenheimer and Rath. Also Senator Present. Ayes 49 nays 8.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: Request unanimous consent to be recorded in the negative on 1601, please.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be recorded in the negative on Calendar 1601.

Secretary will read.

THE SECRETARY: Calendar Number 1612, by Senator Maziarz, Senate Print 5734, an act to amend Chapter 41 of the Laws of 1997.

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 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1613, by Senator Spano, Senate Print 5736, an act to amend the Retirement and Social Security 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 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1614, by Senator Meier, Senate Print

5743, an acto to amend the Alcoholic Beverage Control Law.

ACTING PRESIDENT MEIER: The bill is high; it will be laid aside.

THE SECRETARY: Calendar Number 1616, by the Committee on Rules, Senate Print 5778, an act to amend the Racing, Pari-mutuel Wagering and Breeding Law.

ACTING PRESIDENT MEIER: The bill is high; lay it aside.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: No, Senator, there is not.

SENATOR SKELOS: There being no further business, I move we adjourn -

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: I would like to ask unanimous consent to be recorded in the negative on 1601.

ACTING PRESIDENT MEIER:

Without objection, Senator Saland will be recorded in the negative on Calendar 1601.

Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business, I move we adjourn until Sunday, August 3rd, at 1:00 p.m. sharp.

ACTING PRESIDENT MEIER:

Senate will stand adjourned until Sunday, August 3rd, at 1:00 p.m. sharp.

Whereupon at 9:10 p.m., the Senate adjourned.)