ALBANY, NEW YORK

February 2, 1998

3:04 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, 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 rise and repeat with me the Pledge of Allegiance.

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

The invocation will be given by the Reverend William Bazemore, Pastor of Emanuel Church of God in Christ, Brooklyn.

Reverend.

REVEREND WILLIAM BAZEMORE: Father, in the name of Jesus, I come before You today knowing You are the God that knows everything. You delivered man and woman who are here by me. I don't know them, Father, but I'm asking You if You find one that's sick, bless his body right now and make him whole, because You are the only one who can do it. You are the God of all of them. Let everyone understand that You are real.

Father, You told me if I live the life You told me that You'll do anything that I ask You to do, and I live what You told me to do, and I'm counting on You today to bring love

to them all. Don't let the part -- bring them together. A house divided will not stand. Let them know that You are real, Father. Let them have the mind -- the same mind that You give your son, that they will do the right thing.

Father, may I ask you to bless us. Bless everyone in the sound of my voice today and catch them in the name of Jesus. We don't know everything about all of them. Bring justice to them, Father. We need more justice.

Father, the world is going back in doubt more and more today because you are waiting on them, Father. You are proud of us. This is a great state, and You would let them live as man if they would just walk that straight road and bring justice back to every man and woman in this state.

I'm asking you now. Let Your will be done in all of them. Let them know where justice come, where just as love is always here together. Let justice be more and more. Let justice -- everyone have justice. Let everyone know that You love them.

Father, you know the heart of every man and woman in here. Let them look on

the little children of the state. The children are the future generation. If they don't reach out, there won't be nobody. Nobody here could stand here in the future. You could make them. You could stand by them right now and give them a mind to do the right thing. Bring prayer to Your little children.

Father, with tears in my eyes sometimes, see the condition of Your children. There's never enough love. Prayer will change things if you bring prayer to them and move all of this drugs from the children. I didn't ask you to move all of the drugs. I asked you to move all the drugs from Your children until they're grown. Let everybody know that's what's destroying this world nation. It's going to destroy the nation and destroy it more and more all the time.

I would love to be here to see You bring prayer right to Your little children. Just let me live that long and then after that, I will be ready to go, if I can see love, justice and prayer back into the school.

This I ask You in the name of the Father, the son and the precious Holy Spirit.

Amen.

THE PRESIDENT: Amen. The reading of the Journal, please.

THE SECRETARY: In Senate, Saturday, January 31st. The Senate met pursuant to adjournment. Senator Farley in the Chair upon designation of the Temporary President. The Journal of Friday, January 30, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Trunzo, from the Committee on Civil Service and Pensions, reports the following bills: Senate Print 3368-A, by Senator Trunzo, an act to amend Chapter 769 of the Laws of 1975;

4277, by Senator Trunzo, an act to amend the Civil Service Law, in relation to the promulgation of rules;

4433, by Senator Hannon, an act

to amend the Civil Service Law, in relation to authorizing the defense and indemnification by the state; and

5217, by Senator Volker, an act to amend the Civil Service Law, in relation to the definition of public employee.

Senator Meier, from the Committee on Veterans and Military Affairs, reports:

Senate Print 76, by Senator Levy, an act to amend the Public Service Law, in relation to utility rates charged;

463, by Senator Larkin, an act to amend the Education Law, in relation to expanding student aid programs; and

2216, by Senator Farley, an act to amend the Real Property Tax Law, in relation to granting real property tax exemption.

All bills ordered direct for third reading.

THE PRESIDENT: Without objection, all bills direct to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Skelos.

SENATOR SKELOS: I believe there's several motions, Madam President.

THE PRESIDENT: Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

On page 5, I offer up the following amendments to Calendar Number 32, Senate Print 4012, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR LIBOUS: And also, Madam President, on page 6, I offer the following amendments to Calendar Number 64, Senate Print Number 3200-A, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: So ordered.

SENATOR LIBOUS: Madam President, I would like to star one of my bills, if I may, put a sponsor's star on Calendar Number 144.

THE PRESIDENT: It will be starred.

SENATOR LIBOUS: Thank you.

THE PRESIDENT: Senator -- oh, I'm sorry. Senator Meier.

SENATOR MEIER: Thank you, Madam President.

Madam President, on behalf of Senator Stafford, I wish to call up Print Number 6025, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 132, by Senator Stafford, Senate Print 6025, an act to amend the Real Property Tax Law, in relation to extensions for the payment of taxes.

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

THE PRESIDENT: The Secretary will call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 40.

THE PRESIDENT: The bill is restored to its place on the Third Reading Calendar.

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

THE PRESIDENT: The amendments are received and the bill will retain its place on the Third Reading Calendar.

SENATOR MEIER: Madam President, on page number 14, on behalf of Senator Hannon, I offer the following amendments to Calendar Number 168, Senate Print Number 4974, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received and the bill will retain its place on the Third Reading Calendar.

SENATOR MEIER: Madam President, on behalf of Senator Hannon, on page number 14, I offer the following amendments to Calendar Number 167, Print Number 4973, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received and the bill will retain its place.

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: The Secretary will read.

SENATOR SKELOS: Is there any

housekeeping at the desk?

THE PRESIDENT: The Secretary will read the substitution.

THE SECRETARY: On page 13, Senator Stafford moves to discharge from the Committee on Consumer Protection Assembly Bill Number 1357 and substitute it for the identical Third Reading Calendar 157.

THE PRESIDENT: The substitution is ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room and at this time if we could take up the non controversial calendar.

THE PRESIDENT: There will be an immediate meeting of the Rules Committee in the Majority Conference Room and the Secretary will read.

THE SECRETARY: Calendar Number 11, by Senator Leibell, Senate Print 2228, an act to amend the Public Housing Law, in relation to the statute of limitations and actions against authorities.

SENATOR PATERSON: Lay it aside.

THE SECRETARY: Calendar Number 16, by Senator Volker, Senate Print 397, an act to amend the Penal Law, in relation to issuance of licenses to have and carry pistols.

SENATOR PATERSON: Lay it aside.

THE PRESIDENT: Lay it aside.

THE SECRETARY: Calendar Number 31, by Senator Cook, Senate Print 1418-A, an act to amend the Insurance Law, in relation to motor vehicle liability insurance rates for certain persons involved in accidents.

THE PRESIDENT: Read the last section, please.

THE SECRETARY: Section 4. This act shall take effect on the first day of January.

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

THE PRESIDENT: The bill is passed.

THE SECRETARY: Calendar Number 70, by Senator Spano, Senate Print 1483, an act to amend the Social Services Law, in relation to

requiring investigation of all reports of child abuse.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 72, by Senator Saland, Senate Print 4857, an act to amend the Social Services Law, in relation to authorizing payment of certain living expenses.

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 48.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 78, by Senator Marcellino, Senate Print 4126, an act to amend the Environmental Conservation Law, in relation to the removal of endangered, threatened and protected plants.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 90, by Senator Velella, Senate Print 1189, an act to amend the Criminal Procedure Law, in relation to the use of electronically transmitted documents before the grand jury.

ACTING PRESIDENT MEIER: Read the last section.

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

November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 117 -- 1117 (117), by Senator Alesi, Senate Print 3210, an act to amend the Executive Law, in relation to certain payments to veterans' unremarried spouses.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 11... 118, by Senator Present, Senate Print 4005, an act to amend the Executive Law and the

Military Law, in relation to providing authority.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 121, by Senator Levy, Senate Print 602, an act to amend the Vehicle and Traffic Law, in relation to increasing penalties for leaving the scene of an accident without reporting.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 134, by Senator Johnson, Senate Print 244, an act to amend the Penal Law, in relation to establishing a presumption that a child has been permanently removed from the state six months.

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.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 136, by Senator Skelos, Senate Print 333, an act to amend the Penal Law, in relation to increasing the penalties for custodial inference.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect -

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: I'm sorry. Lay the bill aside.

THE SECRETARY: Calendar Number 139, by Senator Saland, Senate Print 816-A, an act to amend the Penal Law, in relation to authorizing restitution for expenses related to custodial interference.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 140, by Senator Spano, Senate Print 882, an act to amend the Penal Law, in relation to the crime of criminal employment of a minor in a drug

enterprise in the first degree.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Spano, this completes the reading of the non-controversial calendar.

SENATOR SPANO: Move to the controversial calendar, please.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 11, by Senator Leibell, Senate Print 2228, an act to amend the Public Housing Law, in relation to the statute of limitations and actions against authorities.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator

Leibell.

SENATOR SPANO: Mr. President, someone asked for an explanation of the bill?

ACTING PRESIDENT MEIER: Yes. Senator Spano, an explanation has been requested.

SENATOR SPANO: Would you please yield to Senator Leibell.

SENATOR LEIBELL: Thank you, Senator Spano.

The purpose of this bill is to give the Public Housing Law or a similar counterpart to Subdivision 3 of 50-i of the General Municipal Law regarding the running of the statute of limitations, notwithstanding the lack of completion of a 50-h hearing on the requirement of 30-day notice of claim.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Leibell would kindly yield for a few questions.

ACTING PRESIDENT MEIER: Does the Senator yield to a question?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER: Senator Leibell yields, Senator Paterson.

SENATOR PATERSON: Senator, I understand the position of the Housing Authority that there is a disparity currently between the statutes -- between the Housing Authority and the City. In attempting to, in a sense bring these two entities into equity where the statutes are concerned, did you give any consideration to actually extending the statute that the Housing Authority has presently to make it comparable to that which the City has rather than the other way around which certainly would limit the opportunity of many to bring actions against these entities for some tort -- on some tort claim?

SENATOR LEIBELL: Senator, the city of New York has requested this legislation and it is my understanding that they have, in fact, considered that. Their desire here is to establish parity with every other public authority, to establish equal grounds, and this is the way that the city of New York felt it would best be implemented.

SENATOR PATERSON: Thank you very much, Mr. President.

If the Senator would continue to yield.

SENATOR LEIBELL: Yes, sir.

ACTING PRESIDENT MEIER: The Senator continues to yield, Senator Paterson.

SENATOR PATERSON: I can understand why the city of New York would feel that way. It would certainly make life easier for their corporation counsel and for the claims that are made against the City which would be specifically to find what would be the best protection and to try to bring parity between all the agencies with that protection, but as legislators, I would suggest that we might want to look further to take notice of the fact that individuals who live in the Housing Authority are not the most advantageous when it comes to getting legal advice as to what might be proper action for a lawsuit.

Secondly, you would have the issue that perhaps an individual might not realize what the actual injury is for some period of time and then finally the extra 30

days and the time to put forth the notice of claim might just be the extra time in which someone might make the decision to take that kind of action.

All we would really be doing is extending a small period of time which might have a large value in terms of the fact that this action we would be taking doesn't relate to the merits of the actual case. It actually relates to having the access for those who feel that they aren't -- feel that they have been violated in some way by the Housing Authority or even the municipality itself and want to bring a claim. In our country, I would think that we would want to do that.

My question, therefore, is, is it that much of a difference that we wouldn't, in this type of case, if anything, lean on the side of the plaintiff rather than on the side of the respondent who has all of the resources to defend itself in a court?

SENATOR LEIBELL: Senator, I don't think there's any attempt here to lean one way or the other. What there is an attempt to do is to bring an equality to the system. The

same tenants who you are concerned about when suing a Housing Authority live -- if they had a cause of action against another governmental entity, they would have the same concerns. We are trying to say if they were suing on other grounds against another governmental authority, the same rules would apply as to the Housing Authority.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President, and thank Senator Leibell. He was quite responsive to my questions.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson on the bill.

SENATOR PATERSON: It certainly makes sense to bring a parity between the statute of limitations that the municipality is providing and that which the Housing Authority has right now, and I can certainly understand Senator Leibell's point of view. It makes perfect sense.

All I'm suggesting is that if we were going to choose between the two levels of

protection, that we favor the value of that which would bring the injured party more access rather than the one that would, in a sense provide lesser time and would inevitably favor the institution. Even if it was not intended to favor the institution, it does because there's a shorter time to file the claim.

Under New York law, there are currently nine protections that I could find that told the statute of limitations. They actually delay it while some situation is under an operation of law and what we're saying is that one of them that actually exist in this particular -- in this particular legislation should be allowed to go forward; in other words, that there be some extra time where notice of claim would be filed, where there might be a hearing, where there might be a determination as to whether or not there is a cause of action. The fact that a person feels that they're injured and they want to go to court, historically municipalities have had the advantage in that there are very short statutes of limitations. So, therefore, if you're going to bring a claim against a municipality, you

have to act quickly. Many people don't have the resources or the access or the information that they would actually need to come to that determination.

All we're saying is that between the two statutes that Senator Leibell is trying to bring parity, we would favor the one that would have given more time to the resident of the Housing Authority or anyone else. We would want them to have that extra time.

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.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 11 are Senators Connor, Dollinger, Leichter, Montgomery, Onorato, Paterson and Sampson. Ayes 46, nays 7.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 16, by Senator Volker, Senate Print 397, an act to amend the Penal Law, in relation to issuance of licenses to have and carry pistols.

SENATOR PATERSON: Explanation.

SENATOR VOLKER: Mr. President, this is a bill that has passed this house on a number of occasions and it has been termed the proper cause bill.

What the bill basically does is to, in effect, reverse the process that goes on now in that it sets up a presumption that the person has a clean, moral, criminal and mental record. Of course, the person still has to go through the same requirements of fingerprinting and records checking as there is now, which is something that, I think a lot of the people that have opposed this bill have discounted over the years.

What it does is it frankly simplifies the process -- we're just waiting for a second here, Mr. President. At any rate, what it does is it simplifies the process as far as pistol permits is concerned.

One of the things that I think is interesting about it is it probably, except possibly in parts of New York City, will not create a situation where a lot more pistol permits will be issued.

The one thing it will do in all honesty and -- it will eliminate a lot of the restrictions on pistol permits which now are done by judges, and so forth, because if a person has a clean and moral character with no criminal record, then actually what it would do is to set up a situation where it would allow the restrictions which now frankly mean very little, if anything, except to make many people feel better, would not be allowed.

This bill passed last year with a considerable number of Minority people voting against it, very honestly. I realize the city of New York has opposed it over the years. They have difficulty in explaining some of their licensing procedures, but I guess that's the way it is.

So that's what this bill does.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

If Senator Volker will yield just to one question.

SENATOR VOLKER: Certainly.

ACTING PRESIDENT MEIER: The Senator yields, Senator Dollinger.

SENATOR DOLLINGER: Thank you, Senator.

You and I have discussed this bill and what the effect of the presumption is. My question is -- this is a concealed weapons permit and my question is, is there any -- since the language in the statute currently allows someone to carry a concealed weapon in - without regard to employment, regardless of who they work for or regardless of the place of possession, my question is, given your preference in this bill to create a presumption of good moral character, is there any place where an individual with a concealed weapon would be where you can think that the presumption of good character might not apply, where you would want to have someone prove that they had good character; for example, on the

floor of the Senate, for example, in a hospital, for example, in a jail, for example, in a child care center; my question is, does -- where the pistol is carried in a concealed fashion, does that, in your judgment, alter in any way your sense whether -- of when this presumption works?

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: First of all, this is not a concealed weapons bill. This is a pistol permit bill. It has nothing to do with concealed weapons.

The second thing that's interesting, Senator, is carrying weapons on this floor openly is something that violates our rules. Licensing rules only relate to the ownership of carrying pistols. They don't necessarily relate to location. Schools still have the right to say that you can't carry pistols on premises and things of that nature. I don't think there's really an understanding of the fact that the decisions that judges make, for instance, presently as far as weapons are concerned, does not necessarily apply to every

premises. People still have the right to make decisions if they don't want people to carry, for instance, weapons on school grounds and things like that for safety purposes. That's not necessarily included, but what this is is in the normal range of things, whether a judge could issue a permit that says a person can carry a weapon and is entitled to carry a weapon under the present law.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, on the bill.

Senator Volker and I have discussed this in prior years. With all due respect to the Chairman of the Codes Committee, this is an amendment to section -- to Subdivision (f) which says -- if you follow the language in the front, it says "a license for a gunsmith or dealer, a license for a pistol or revolver shall be issued to", and it says, "(f), have and carry concealed without regard to employment or place of possession", that is, regardless of what you do in life and regardless of where you possess it, anywhere -- anywhere,

hospital, nursing home, floor of the Senate, floor of the Assembly, Governor's office, any place you wanted to be, it says "by any person when proper cause exists for the issuance thereof" and then it contains the presumption that Senator Volker has so eloquently defended.

My question to him was designed to raise the issue of, if you assume -- if you presume that someone is of good character to carry a concealed weapon, does that apply every place that you take it; and I'm not so sure that it does.

I believe this does affect concealed weapons, the carrying of concealed weapons. I believe it creates a presumption that flips the current law on its head and does that unwisely. I think the city of New York is proper in its skepticism about this bill.

I have voted against it in the past. I'll vote against it today. I think if we are going to allow someone to carry a concealed firearm, one that you can't tell they have on them and you're going to let them carry it regardless of what they do, that is, no matter who they work for they can carry it and

regardless of where they are they can carry it and we're going to create a right for them to carry it, it seems to me that we can require that they show that they have the proper moral mental character and no criminal record in order to be able to justify us, this state and our judges allowing them to carry a concealed weapon any place regardless of what they do.

It's not a difficult task to meet. I think it simply says we're going to require people who carry concealed weapons to meet a threshold of good character. It was well advised when we put it in there. We would be well advised to keep it.

ACTING PRESIDENT MEIER: Read the last section.

Senator Paterson.

SENATOR PATERSON: Mr. President, I've heard the discussion between Senator Volker and Senator Dollinger. I thought they both presented their point of view very well and after careful consideration and thought on this subject, I agree with Senator Dollinger. I think that he -- in spite of how he's treated me often on the basketball court, I thought he was

quite profound in his judgment and actually I just wanted to add to it that we had a bill previously where New York City was asking for a certain equity to be drawn in the measure of the statute of limitations where the Housing Authority interfaces with the municipality itself and New York City made it very clear and so did Senator Leibell that this is what New York City wants.

In this legislation, New York City wants the same thing that Senator Dollinger articulated, which would be to regulate its own value for what would constitute the threshold for a license to carry or possess a firearm, and in that regard, there are many other pieces of legislation where we are not presuming anything about individuals who are fingerprinted for certain types of employment in many areas because we feel that it affects children or it affects some area that we consider to be sensitive. Certainly the license to possess a firearm is a sensitive area and we generally feel that this is one where we can't establish that kind of presumption about anyone.

And on this legislation, Mr.

President, we would like a slow roll call vote.

ACTING PRESIDENT MEIER: Slow roll call has been requested.

The clerk will call the roll.

THE SECRETARY: Senator Abate.

(There was no response.)

Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Yes.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: No.

THE SECRETARY: Senator Bruno.

(Affirmative indication.)

Senator Connor.

(Negative indication.)

Senator Cook.

(There was no response.)

Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Gentile.
SENATOR GENTILE: No.
THE SECRETARY: Senator Gold.
(There was no response.)
Senator Gonzalez.
(There was no response.)
Senator Goodman.
(Negative indication.)
Senator Hannon.
(There was no response.)
Senator Hoffmann.
SENATOR HOFFMANN: Aye.
THE SECRETARY: Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Kuhl.
(There was no response.)
Senator Lachman.
SENATOR LACHMAN: No.
THE SECRETARY: Senator Lack.
(There was no response.)
Senator Larkin.

(There was no response.)

Senator LaValle.

(There was no response.)

Senator Leibell.

(There was no response.)

Senator Leichter.

SENATOR LEICHTER: No.

THE SECRETARY: Senator Levy, excused.

Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

(There was no response.)

Senator Marcellino.

SENATOR MARCELLINO: Yes.

SENATOR SKELOS: Mr. President, are the bells ringing?

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Are the bells ringing?

ACTING PRESIDENT MEIER: Yes, Senator Skelos, they are.

SENATOR SKELOS: Thank you.

ACTING PRESIDENT MEIER: The

Secretary will resume the roll call.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Yes.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Aye.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Yes.

THE SECRETARY: Senator Mendez, excused.

Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

(There was no response.)

Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.
THE SECRETARY: Senator Padavan.
SENATOR PADAVAN: Yes.
THE SECRETARY: Senator Paterson.
SENATOR PATERSON: No.
THE SECRETARY: Senator Present.
SENATOR PRESENT: Aye.
THE SECRETARY: Senator Rath.
SENATOR RATH: Aye.
THE SECRETARY: Senator Rosado.
(There was no response.)
Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Sampson.
SENATOR SAMPSON: No.
THE SECRETARY: Senator Santiago.
(Negative indication.)
Senator Seabrook.
(There was no response.)
Senator Seward.
SENATOR SEWARD: Yes.
THE SECRETARY: Senator Skelos.
SENATOR SKELOS: Yes.
THE SECRETARY: Senator Smith.
(There was no response.)

Senator Spano.
(There was no response.)
Senator Stachowski.
SENATOR STACHOWSKI: Yes.
THE SECRETARY: Senator Stafford.
(There was no response.)
Senator Stavisky.
(There was no response.)
Senator Trunzo.
SENATOR TRUNZO: Yes.
THE SECRETARY: Senator Velella.
(There was no response.)
Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon, excused.
Senator Wright.
SENATOR WRIGHT: Aye.
ACTING PRESIDENT MEIER: Call the absentees.
THE SECRETARY: Senator Abate.
SENATOR ABATE: No.
THE SECRETARY: Senator Cook.
(There was no response.)
Senator Gold.

(There was no response.)

Senator Gonzalez.

(There was no response.)

Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: Aye.

THE SECRETARY: Senator Leibell.

(There was no response.)

Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Nozzolio.

(There was no response.)

Senator Rosado.

(There was no response.)

Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Smith, excused.

Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky.

(There was no response.)

Senator Velella.

SENATOR VELELLA: Yes.

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Ayes 32, nays 18.

ACTING PRESIDENT MEIER: The bill is passed.

Calendar Number 136, by Senator Skelos, Senate Print 333, an act to amend the Penal Law, in relation to increasing the penalties for custodial interference.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, this legislation would increase the penalties for custodial interference, in particular, creating the new crime of custodial interference in the third degree where there is no -- a

decision pending by the courts as to final custody but there has been interference by one of the parents.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I raised during -- on this bill during the Codes Committee deliberation, I raised a technical issue with respect to some of the definitional questions. In the interim since that meeting, I have had discussions with counsel for the Deputy Majority Leader and I'm satisfied. Although the bill, I think could be -- it's not perhaps perfect in its draftsmanship, I think it's strong enough to survive.

Therefore, I'm going to be voting in the affirmative.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect on the 15th day of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

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

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading: Senate Print 6112, by Senator Wright, an act to authorize the New York State Urban Development Corporation to utilize certain funds.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Substitution - is there a substitution to be made at the desk? Move to accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: The

motion is to accept the report of the Rules Committee. All in favor of accepting the report signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The report of the Rules Committee is accepted.

Senator Skelos.

SENATOR SKELOS: I believe, Mr. President, the bill is being distributed and we'll take it up in a moment.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: At this time if we could take up Senate 6112.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 176, by Senator Wright, Senate Print 6112, an act to authorize the New York State Urban Development Corporation to utilize certain funds.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: Yes, Senator, there is.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The motion is to accept the message of necessity. All in favor of accepting the message signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message is accepted.

SENATOR DOLLINGER: Just an explanation.

ACTING PRESIDENT MEIER: The Secretary will read -- the Secretary will read the last section.

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

SENATOR DOLLINGER: Mr. President, could we just have an explanation?

ACTING PRESIDENT MEIER: Senator

Dollinger.

SENATOR DOLLINGER: I assume this came out of the Rules Committee.

SENATOR SKELOS: Yes, it was reported from the Rules Committee.

SENATOR DOLLINGER: Could we just have a brief explanation of it.

ACTING PRESIDENT MEIER: Senator Wright, an explanation has been requested by Senator Dollinger of Senate Bill Number 6112.

SENATOR WRIGHT: Thank you, Mr. President.

You'll find 6112 on your desk, I believe. It's a Governor's program bill relative to the state of emergency and the disaster that was declared for the North Country, and what this bill does is provide state funding through the -- excuse me - Economic Development Agency available to small businesses, agribusiness and other enterprises within that six-county region that was designated as a disaster area and it's to provide up to $5,000 in grants or 50 percent of the estimated cost of the damages, whichever is less, from state funds, and the intent is to

provide a direct infusion of state assistance to these six-county impacted regions, to help revitalize the economy, particularly that of small businesses throughout that region, particularly in areas where federal assistance cannot and will not be directed to those initiatives.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: One question on the bill, Mr. President, through you to Senator Wright.

Section 4 says that where -- the PACB will not have approval authority. Could you explain the rationale for cutting the PACB out of this?

SENATOR WRIGHT: Well, I think the rationale is simply from the standpoint of the appropriation. They are $5,000 projects, so no single project is going to exceed that amount, which is a relatively small amount given the history of the PACB. More importantly, this is disaster assistance that is hopefully going to be expedited as quickly as possible in terms of providing relief to the small businesses of

the North Country.

SENATOR DOLLINGER: Again through you, Mr. Chairman.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you to Senator Wright, is this going to be done on an application process? Is this a reimbursement, file your forms with your damages and you'll get up to a $5,000 grant? Is that how it's going to work?

SENATOR WRIGHT: There will be a process. There will be eligible project costs as are defined in the bill and you will be reimbursed up to $5,000 or 50 percent of the costs.

SENATOR DOLLINGER: Thank you, Mr. President.

I'm satisfied.

SENATOR WRIGHT: Thank you, Mr. Dollinger.

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 55.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR WRIGHT: On the bill.

ACTING PRESIDENT MEIER: Senator Wright.

SENATOR WRIGHT: Thank you.

On this bill -- and I appreciate the Senate's passage of it -- I want to take the opportunity to commend the Governor and his executive staff in presenting this program bill.

From the beginning, the Governor and his people have worked extremely closely with us. Since we have returned to session, Senator Stafford, Senator Meier, myself, as well as our Assembly colleagues have been meeting with the Governor and his senior people on a regular basis. This is one of but several bills that have been advanced in direct response to the concerns expressed by our constituents and the needs that are articulated by the people in our district, and I want to commend the Governor

for his prompt and quick attention to this matter.

Thank you.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time could you take up Calendar Number 132, Senate 6025-A, which was restored and amended earlier today.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 132, by Senator Stafford, Senate Print 6025-A, an act to amend the Real Property Tax Law, in relation to extensions for the payment of taxes.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

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: 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 is accepted.

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 55.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Rules Committee in the Majority Conference Room and the Senate will stand at ease pending the report of the Rules Committee.

ACTING PRESIDENT MEIER: There will be an immediate meeting of the Rules

Committee in the Majority Conference Room and the Senate will stand at ease.

(Whereupon, the Senate stood at ease from 4:00 p.m. until 4:07 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we could return to reports of standing committees again, I believe there is a report of the Rules Committee. I ask that it be read.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bill direct to third reading: Senate Print 6113, by Senator Stafford, an act to amend the Executive Law, in relation to the dairy indemnity program and providing for the repeal of such provisions upon expiration thereof.

SENATOR SKELOS: Move to accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: The motion is to accept the report of the Rules Committee. All in favor of accepting the report

signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could take up Senate 6113.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 177, by Senator Stafford, Senate Print 6113, an act to amend the Executive Law, in relation to the dairy indemnity program.

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: 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.

SENATOR DOLLINGER: Mr. President, could we just have an explanation as to what the bill is?

ACTING PRESIDENT MEIER: Certainly. Senator Dollinger has requested an explanation, Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President.

Once again, we're concerned for the tragedy that fell upon my area of the state. I'm very aware of these problems happening in other parts of the state and other parts of the country, but believe me, I just say that this was beyond what words can really explain.

This is a dairy indemnity program. I would only say -- I won't wish you people were there but, of course, even in small herds, when you drove up to a farm and you saw a fairly good size herd and you saw cows laying on the ground that were down, cows not being able to breath, milk being dumped and, of course,

that was the health reason also because the milk couldn't be chilled. If it can't be chilled right off, you have a problem with it. So just a terrible situation.

We have people in the industry - and this gives me a chance to make this point. In some areas of our state right now, the farmers have been operating for the last 18 months selling milk under cost, and I think all of you will realize the seriousness of that problem.

This will provide funds for those who lost in the dairy industry and the major problem, of course, was income, and that's the milk check, and this is very, very necessary.

I certainly compliment the Governor for being involved as he has been with his people. I compliment all who are being so helpful to all of us, and that's everybody. It's just unbelievable, the outpouring of support that we've received.

You know, you hesitate to say that there's one industry that is hurt more than another; in other words, if anybody is losing their income that serious because that's dollars

and cents. This will help, will support the dairy industry.

I urge everyone to please support it, and I certainly would be glad to answer any questions.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

If the Chairman of Finance will yield for a question.

SENATOR STAFFORD: By all means.

ACTING PRESIDENT MEIER: The Senator yields, Senator Dollinger.

SENATOR DOLLINGER: Where does the money come from in this bill to make these payments?

SENATOR STAFFORD: Well, let me see. I'll get it here. The money would come from the general fund -- let me see the bill - and it will -- I assure you if we can't find someone to administer it, we will, I'll guarantee you that.

SENATOR DOLLINGER: As I read the bill, through you, Mr. President, it's going to

be administered through the state Emergency Management Office and the Commissioner of Agriculture and Markets.

SENATOR STAFFORD: They have been right there on the scene.

SENATOR DOLLINGER: It says here also that they're going to be made from the Division of Military and Naval Affairs Disaster Assistance Program. Do you know how much money is in there?

SENATOR STAFFORD: In where?

SENATOR DOLLINGER: In that program.

SENATOR STAFFORD: In this bill, it's $1 million.

SENATOR DOLLINGER: It's $1 million?

SENATOR STAFFORD: Right.

SENATOR DOLLINGER: Is there any individual payment limitation to cooperatives or farmers?

SENATOR STAFFORD: No.

SENATOR DOLLINGER: Do you know how many will be served by the bill? Do you have any idea how many people might get payments

out of it?

SENATOR STAFFORD: There were 1,824 dairy farms in the six-county area impacted by the storm and -

SENATOR DOLLINGER: 1,824.

SENATOR STAFFORD: So that's a lot of people.

SENATOR DOLLINGER: Okay. Again through you, Mr. President, I don't need a further explanation. I'm going to vote in favor of this bill but perhaps the Chairman of Finance will some day tell me, dairy farms -- the bill says that dairy farms provide needed open spaces for clean air sheds. My experience when passing near a dairy farm, it's not necessarily clean air. It's a good thing, but maybe some day someone will explain to me what a clean air shed is near a dairy farm.

SENATOR STAFFORD: I can explain it right now. The reason these cows were dropping is because it wasn't clean air.

SENATOR DOLLINGER: Because it wasn't clean air. That's what I was asking.

Thank you, Mr. President. I'm satisfied.

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 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I was out of the chambers when there was a vote on Calendar 11, Senate Bill 2228. I would request to be recorded in the negative.

ACTING PRESIDENT MEIER: Without objection.

Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, during a slow roll call, I was inadvertently out of the chamber, and I would ask to be recorded -- if I were here, recorded in the positive on Calendar Number 16, Senator Volker's measure, S.397.

ACTING PRESIDENT MEIER: So noted.

Senator Leibell.

SENATOR LEIBELL: Yes, Mr. President. On the vote on S.397, Calendar Number 16, I was out of the chamber inadvertently at the time. I would like to have -- had I been here, I would like my vote recorded in the affirmative.

ACTING PRESIDENT MEIER: The record will so note.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: There is none.

SENATOR SKELOS: There being no further business, I move we adjourn until Tuesday, February 3rd, at 3:00 p.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, February 3rd, at 3:00 p.m.

(Whereupon, at 4:19 p.m., the Senate adjourned.)