ALBANY, NEW YORK

March 16, 1998

3:01 p.m.

REGULAR SESSION

LT. GOVERNOR BETSY McCAUGHEY ROSS, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. Would you please rise and join with me in the Pledge of Allegiance.

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

The invocation will be given by Reverend Dr. Gary Simpson, who is pastor of the Concord Baptist Church of Christ in Brooklyn.

REVEREND DR. GARY SIMPSON: Let us pray. Eternal and everlasting presence gathered in this room as the representatives' civic power for our beloved state of New York, this collective is the potential blessing for the strength of our community and human family, rich and poor, rural, urban and suburban.

Your urgings and wishes for us are that we live in justice, mercy and humil ity. May today's discussion, deliberations and decisions carry forth with these holy urgings in mind. Amen.

THE PRESIDENT: Amen.

The reading of the Journal,

please.

THE SECRETARY: In Senate, Sunday, March 15th. The Senate met pursuant to adjournment. The Journal of Saturday, March 14th, 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 PRESIDENT: Senator Maltese, from the Committee on Elections, reports:

Senate Print Number 6394, by Senator Spano, an act to amend the Election Law.

Senator Leibell, from the Committee on Housing, Construction and Community Development, reports:

Senate Print 4141, by Senator Leibell, an act to amend the General Business

Law;

6041, by Senator Goodman, an act to amend the Real Property Tax Law;

6175, by Senator Leibell, an act to amend the Multiple Dwelling Law; and

6280, by Senator Leibell, an act to amend Chapter 567 of the Laws of 1993.

All bills directly 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 Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

I move the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Number 4863 and Senate Number 6070.

THE PRESIDENT: So ordered.

SENATOR MARCELLINO: Thank you.

Madam President, on page number 6, I offer the following amendments to Calendar Number 98, Senate Print Number 3456, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendments are received.

SENATOR MARCELLINO: On page number 20, Madam President, I offer the following amendments to Calendar Number 382, Senate Print Number 5125, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: So ordered.

SENATOR MARCELLINO: Thank you.

Mr. President, on page number 20, I offer the following amendments to Calendar Number 385, Senate Print Number 6207, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received. So ordered.

SENATOR MARCELLINO: Mr.

President, on page number 21, I offer the following amendments to Calendar Number 389, Senate Print Number 3426-B, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received. So ordered.

SENATOR MARCELLINO: Last but not least, Mr. President, on page number 21, I offer the following amendments to Calendar Number 391, Senate Print Number 2379, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received. So ordered.

SENATOR MARCELLINO: Thank you, sir.

ACTING PRESIDENT MEIER: The Secretary will read -- I'm sorry.

Senator Skelos.

SENATOR SKELOS: If we could go to the non-controversial calendar, please.

ACTING PRESIDENT MEIER: The Secretary will read the non-controversial calendar.

THE SECRETARY: Calendar Number 45, by Senator Lack, Senate Print 1097, an act to amend the Labor Law, in relation to direct sellers.

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 57, by Senator Skelos, Senate Print 339, an act to amend the Education Law, in relation to drug testing.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 178, by Senator LaValle, Senate Print 249, an act to amend the Education Law, in relation to enacting the Higher Education Community Service Act.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of September.

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 179, by Senator LaValle, Senate Print 559, an act to amend the Education Law, in relation to community service.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the first day of

September.

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 240, by Senator Holland, Senate Print 231, an act to amend the Social Service Law and the Workers Compensation Law.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 274, by Senator Cook, Senate Print 2729, an act to amend the General Municipal Law and the General City Law.

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number

289, by Senator Volker, Senate Print 5325, an act to amend the Criminal Procedure Law, in relation to waiver of pre-sentence investigations.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th 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 290, by Senator Present, Senate Print 765-C, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT MEIER: Read the last section.

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

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.

THE SECRETARY: Calendar Number 301, by Senator Johnson, Senate Print 246, an act to amend the Executive Law, the Civil Practice Law and Rules and the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

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

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 304, by Senator Nozzolio, Senate Print 2779 -

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 306, by Senator Nozzolio, Senate Print 3429 -

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

THE SECRETARY: Calendar Number 308, by Senator Maltese, Senate Print 4910, an act to amend the Environmental Conservation Law, in relation to penalties for unlawful taking.

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 51.

ACTING PRESIDENT MEIER: The

bill is passed.

THE SECRETARY: Calendar Number 345, by Senator Alesi, Senate Print 4432, an act to amend the General Business Law.

SENATOR SKELOS: Lay the bill aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: On the controversial calendar, would you take up Senator Holland's bill, Calendar Number 240.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 240, by Senator Holland, Senate Print 231, an act to amend the Social Service Law and the Workers' Compensation Law, in relation to liens.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Holland, an explanation has been requested for Calendar Number 2...

SENATOR HOLLAND: 231.

ACTING PRESIDENT MEIER: 240.

SENATOR HOLLAND: Mr. President, this bill is debated each and every year. It is a question in my mind of double dipping, where a person has an opportunity to be reimbursed twice for the same services, and we've discussed it many times before.

This bill allows the Department of Social Services to place a lien on Workers' Compensation benefits in order to recoup public assistance payments made while someone was awaiting a retroactive payment of compensation benefits.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: Would Senator Holland yield for a couple of questions?

SENATOR HOLLAND: Yes, sir.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR STACHOWSKI: Senator, this bill is the exact same bill taking away the benefits of somebody who was injured and

subsequently got a lawsuit that they won?

SENATOR HOLLAND: It doesn't really take away the benefits. You know that. Somebody needs benefits, if they receive then payment from a lawsuit and are paid double, then it asks that that be repaid, yes, sir.

SENATOR STACHOWSKI: Thank you, Senator.

On the bill.

ACTING PRESIDENT MEIER: Senator Stachowski, on the bill.

SENATOR STACHOWSKI: This obviously still is a one-house bill. I thought that maybe over the course of the off-session that Senator Holland would see that the bill is going no place in the other house, that most people still see this as taking injured workers, people that got hurt through no fault of their own, finally had to take state assistance rather than lose their homes or lose everything that they have and possibly even lost their home anyway and then they're fortunate enough to win the lawsuit, that now they have to pay back the state when

no one else has to pay back the state in situations.

It's kind of interesting. I - we have companies that get major loans, major grants, pack up and leave the state and nobody asks them for a dime back. We have companies that promise to create X amount of jobs and they don't and they lay people off, and nobody asks them for a cent back, but an injured worker in New York State, if this law would pass -- if this bill would pass and become law -- would then, if they were fortunate enough to win a lawsuit, eventually would have to pay back. I find that rather interesting.

I think the fact that these people are injured and can't work again, probably because that's why they won the lawsuit, should be a determination enough that the state was -- helped them at the time they needed it and shouldn't be chasing them for the money eventually that they so fortunately won back and, obviously, if they are hurt that bad that they're never going to work again, there is something that they lost because of the accident that they'll never get back and

more probably than not didn't recoup from the gain they gained in the financial settlement.

So with that, I still think it's an unfair bill. I think it's the only place we really chase anybody. I think we should be a little bit more proactive in chasing companies that don't live up to their agreements when they take state money to create jobs or to expand their business because they're going to create jobs and a little less chasing of the people that were hurt through no fault of their own while on the job and then subsequently are fortunate enough to win a lawsuit.

So with that, I would ask everybody to oppose the bill.

ACTING PRESIDENT MEIER: Read the last -- I'm sorry.

Senator Paterson.

SENATOR PATERSON: Mr. President, would Senator Holland yield for a question?

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator,

what disturbs me about this piece of legislation is that the Workers' Compensation claim, even if it is upheld, does not give the employee their full salary. It gives them a part of their salary, a substantial part but not the total amount, and so, therefore, it is really a gesture that the state makes already understanding that the state cannot cover the full salary. It would probably be most desirable if it were a utopian society that we could give people who were injured in the line of their duty their full salary.

So if there is a marginal amount that might be more than what would have been obtained, I want to know why you would take it away from people who were working, their taxpayers. It's as if you're turning the social service system into a loan agency rather than a granting agency which in Section 104(b) it clearly states that that's what it is.

SENATOR HOLLAND: Firstly, Senator, if someone, after the loan is repaid, still needs social services benefits, social services is there to assist them. We're not

withdrawing social services either before, during or after, if they need it.

The other side of the coin is if there is a working family that is not on social services, they are struggling to make it and they have to take a loan out from the bank so they could make it, they have to repay that loan just like anybody else.

So I believe the person on social services should repay the loan as well. Yes, it doesn't pay 100 percent but it pays up to $400.

SENATOR PATERSON: If the Senator would continue to yield.

SENATOR HOLLAND: Yes.

ACTING PRESIDENT MEIER: The Senator continues to yield.

SENATOR HOLLAND: Yes, sir.

SENATOR PATERSON: Senator, in looking at the social service system and its provision for those who don't have any other resource, one of the problems is that most of the cases that are -- that are filed in the Workers' Compensation area are controverted and it's well heeled in the law that the best

way to intimidate a plaintiff is to expand the amount of time that it takes to adjudicate a particular case.

So while this is actually going on -- and then finding that the plaintiff in this particular action wins, in other words, the party seeking Workers' Compensation receives it -- why would we as a state want to add to the particular burden that the individual suffers at the time that they first leave the job; they have a serious usually physical injury or some other type of injury, they have bills amounting, they have interest accumulating on other debts they may have. We're not talking about people who have spent their lives on the public troth or trying to receive help from agencies. We're talking about people who were working, who were befallen by some kind of accident or some intervening cause which put them in the situation where they are now.

It just seems to me that this is unusually cruel now facing 6 months, 9 months, 11 months in some cases before there is some resolution of their case and then they

win and then we're going to turn around now and say, Oh, by the way, we're going to take off the top the amount that you were awarded in social service benefits. Remember that the individual receiving Workers' Compensation doesn't know they're getting it. So, in other words, they can't ration any kind of budget, personal budget from this. This is just something they're receiving, which in many cases goes to pay back overwhelming debt.

I just don't understand why we would want to put ourselves in the position of -- I mean if -- I don't necessarily agree with it, but if you're going to take money off the top of somebody's lottery wins when they have been on social services, at least they have the money to pay it, but we're talking about people who, quite often, were not able to receive that much amount of money even when they were on social services and to take what seems to be a scintilla of gain back from a person amidst sometimes irreconcilable debt is very unfortunate, and I guess my question to you is, why are we doing it? What's the public policy that this serves?

SENATOR HOLLAND: I think it's the same answer that I gave last time, Senator. If somebody needs social services before, after or during their claim, they can receive social services. If they get a claim that does not pay back everything, they don't have to pay back everything. They are only doing what any hard-working family would do who wasn't on social services. If they had to take a loan to bridge that gap, they would have to pay that loan back.

The same thing here, Senator. These people are, in effect, taking a loan from the state and we don't mind doing if they need the assistance, but when they receive that cash payment, then I believe that they should repay the loan just like any other hard-working family.

SENATOR PATERSON: Thank you very much, Senator Holland. Thank you, Mr. President, for the Senator's answers.

On the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: When you

listen to Senator Holland discuss the legislation, he talks about the award as if it's a loan. There's nowhere that social services grants are considered to be a loan. In fact, it's made quite specific really in Section 104(b) of the law related to social services that it's not a loan. It's a granting endeavor, one that is, in many ways being subjugated by this legislation that would cause it to become an instrument of repayment if the fortunes of the recipient turn after some period of time. In our opinion, it is grossly unfair to the individual.

We can understand Senator Holland's desire not to allow anyone to receive a windfall, but I would suggest that anyone who is familiar with someone or has had the situation happen to them themselves would know that, when you become a client of the Workers' Compensation Board, about the last thing you're ever going to receive with this amount of money is a windfall.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: We would like a slow roll call on this measure.

ACTING PRESIDENT MEIER: The Secretary 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.

SENATOR COOK: Yes.

THE SECRETARY: Senator

DeFrancisco.

(There was no response.)

Senator Dollinger.

SENATOR DOLLINGER: No.

THE SECRETARY: Senator Farley.

(There was no response.)

Senator Gentile.

SENATOR GENTILE: No.

THE SECRETARY: Senator Gold.

SENATOR GOLD: No.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

SENATOR GOODMAN: Yes.

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: No.

THE SECRETARY: Senator Holland.

SENATOR HOLLAND: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Kruger.
(There was no response.)
Senator Kuhl.
SENATOR KUHL: Aye.
THE SECRETARY: Senator Lachman.
SENATOR LACHMAN: No.
THE SECRETARY: Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
(There was no response.)
Senator LaValle.
SENATOR LAVALLE: Yes.
THE SECRETARY: Senator Leibell.
SENATOR LEIBELL: Aye.
THE SECRETARY: Senator Leichter.
SENATOR LEICHTER: No.
THE SECRETARY: Senator Libous.
SENATOR LIBOUS: Aye.
THE SECRETARY: Senator Maltese.
(There was no response.)

Senator Marcellino.

SENATOR MARCELLINO: Yes.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: No.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Yes.

THE SECRETARY: Senator Mendez.

(There was no response.)

Senator Montgomery.

SENATOR MONTGOMERY: No.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

(There was no response.)

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.
(Negative indication.)
Senator Saland.
SENATOR SALAND: Aye.
THE SECRETARY: Senator Sampson.
SENATOR SAMPSON: No.
THE SECRETARY: Senator Santiago.
(There was no response.)
Senator Seabrook.
SENATOR SEABROOK: No.
THE SECRETARY: Senator

Seward. Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Spano.

(There was no response.)

Senator Stachowski.

SENATOR STACHOWSKI: No.

ACTING PRESIDENT MEIER: Call the absentees.

THE SECRETARY: Senator Stafford.

(There was no response.)

Senator Stavisky.

(There was no response.)

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

(Negative indication.)

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

ACTING PRESIDENT MEIER: Call the absentees.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Kruger, excused.

Senator Larkin.

(There was no response.)

Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Mendez.

(Negative indication.)

Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stavisky.
(There was no response.)
Senator DeFrancisco.
SENATOR DeFRANCISCO: No.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Aye.
ACTING PRESIDENT MEIER: Announce the results.
THE SECRETARY: Ayes 32, nays 25.
ACTING PRESIDENT MEIER: The bill is passed.
THE SECRETARY: Calendar Number 57, by Senator Skelos, Senate Print 339, an act to amend the Education Law, in relation to drug testing.
ACTING PRESIDENT MEIER: Read the last section.
THE SECRETARY: Section 2. This act shall take effect in 180 days.
ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 54.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to motions and resolutions, I believe there's a privileged resolution at the desk concerning "Good Joes Day". I would ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

Senator Skelos, just to be clear, you wish only the title read? Senator Skelos, you wish just the title read?

SENATOR SKELOS: The title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: Okay. The Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution commemorating "Good Joes Day", 1998.

ACTING PRESIDENT MEIER: The

question is on the resolution. All in favor signify by saying aye.

(Response of "Aye".)

Opposed?

(There was no response.)

The resolution is carried.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

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

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President. On behalf of Senator DeFrancisco, on page number 15, I offer the following amendments to Calendar Number 323, Senate Print Number 3899-A, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received and so ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please recognize Senator Leichter.

ACTING PRESIDENT MEIER:

Senator Leichter.

SENATOR LEICHTER: Thank you very much, Senator Skelos.

Mr. President, I have a number of motions to discharge. We'll try to get through them quickly, but I think they are important.

The first one I would like to call is my motion to discharge Senate Bill Number 3347.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: 3347, by Senator Leichter, an act to amend the Election Law.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: I waive the reading and ask an opportunity to explain the motion and the bill upon which it's based. Thank you, Mr. President.

Very simple. This is a motion to discharge a bill which will end one of the

worst abuses in campaign financing, the soft money abuse that exists in New York State. We've all heard about the soft money abuse on the federal level and it certainly existed in both parties, no question about it, but we have our own mess right here in Albany and it's not a small mess. It's a very large mess where millions of dollars are being raised in soft money without any limitations whatsoever. An individual can give to a soft money account, which in this state is called housekeeping, without any limitation. Corporations which ordinarily are limited to $5,000 can give an unlimited amount.

Now, we established housekeeping funds in this state to allow parties to raise monies to meet the basic necessities of maintaining a campaign headquarters, staff, pay for utilities, but what we find is the parties raising great sums of money far in excess of any amounts that could reasonably be expected to be needed to meet legitimate housekeeping needs. Most of this money has been raised by the housekeeping fund of the Republican State Committee. It

raised over $5 million in 1996 and 1997.

To give you an idea of the magnitude of the contributions to this fund, Philip Morris contributed over $200,000, over $200,000. A corporation so vitally interested in legislation that goes through our Senate and through the Assembly contributed over $200,000. The Travelers Group, a securities firm vitally interested in legislation before this house contributed 100,000 in 1997, 100,000 in 1996. MBNA Corp. gave 100,000 in 1997. Chase- Manhattan Bank gave 50,000 in 1997, and I believe both Chase and Chemical, shortly after their merger was approved, made substantial contributions.

Now, I think in campaign financing, as I said before, there are no saints. There are only sinners and all of us here know the ordeal of raising money for campaigns. We're all really caught in this difficult, unpleasant and sometimes compromising need to go out and raise monies, but we have an opportunity to establish reasonable limits on the amounts that should be raised.

What my bill does, it says that you can raise from a single individual or corporation, any contributor cannot give more than $1,000 in soft money in this state. Let's cap housekeeping contributions by $1,000 and let's end what is an inexcusable abuse, a terrible loophole in our present law.

I call on Republicans and Democrats, and again emphasize that I think this should be a non-partisan issue. If I mentioned how much had been raised by the Republican State Committee, I did so solely to lay the facts before you. I don't want to make it a partisan issue. I would like to make it a bipartisan issue that all of us together work to make campaign financing in this state not what it is presently which is not a joke but a farce. We have one of the weakest campaign financing laws in the whole nation. We should be ashamed of ourselves. We can take action, and while there may be philosophical disagreements on certain aspects of campaign financing, should you provide free TV, free mailing -- by the way, New Jersey provides free mailing -- should you have

public financing of campaigns -- and by the way, we do it in New York City, and I think it's worked fairly well, but I can understand the philosophical difference, but I cannot understand if anybody gets up on this floor and says housekeeping funds, you should be allowed to give unlimited amounts, although to a Senatorial candidate, New York State Senatorial candidate, you can only give roughly, what, maybe 8,000 combined primary and general election but, no, when it comes to housekeeping funds, you can give an unlimited amount.

And let me just say, and I've documented it, these housekeeping funds often appear to be spent on very specific campaign related matters. I think that not only the spirit of the law but even the letter of the law has been violated.

So let's end the abuse. Let's close the loophole, and I just want to say to those of my friends who say, Well, you know, I'm going to vote against it because it's a procedural motion. Well, it isn't a procedural motion. When you're voting on

this, you're voting on the merits and to say that you're voting to uphold the committee system, we have no decent committee system in this chamber because we know that shortly the committees are going to be closed down. All of the committee decisions are going to be made by the Rules Committee, which means it's made by the Majority Leader. So what are you upholding?

If you vote against this, the only thing you're upholding is you want big money to continue to determine what legislation is passed in this state, what government action is taken. We have a real opportunity to close this glaring loophole. Let's do it.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I rise in support of Senator Leichter's motion. Let me start right at the beginning by saying those who say this isn't a substantive motion, Senator Leichter, this is as substantive as we get.

We've spent the last month and a half doing a bunch of little bills about whether we can put Chinese restaurant leaflets at people's doors. I understand it's a big issue for Senator Padavan but not a big issue for the people of this state. Here's a big issue for the people of this state. How are we going to finance the campaigns of public officials for office? This is as big as it gets. It's as substantive as it gets.

I'm also struck by two things, Senator Leichter, is the delightful little words that we've used to come to describe this method of campaign financing. We call these forms soft money as though there were some distinction between this and hard money. No. Soft money. This is just pure and simple money poured into political operations. Whether we call it soft money or hard money, it's cash. It's good old-fashioned cash and it's used to influence the outcome of elections. So the notion that somehow we would treat soft money differently from the rest of the money that goes into political campaigns is nonsense.

The other thing, Senator Leichter, that you said with your own sort of inimitable style of underestimate is you underestimated what kind of loophole this is. This is not just one of several loopholes. This is the loophole. This is the loophole in which you destroy the effect of campaign finance reform, because as long as you allow money to go into the political parties without limitation, the simple way to get around campaign finance forms is pump the money into the political operation of the party and then they will distribute it or spend it on behalf of the candidate. So you end up with a loop hole that totally swallows our campaign finance laws.

It seems to me that this motion ought to be heard. It ought to be brought to the floor and debated because our notion of what governs us in this democracy in New York State is outdated. We really have a monocracy. We have a form of government in which we're representing the people but the driving force is money, not the people that we represent.

I've heard it said by a number of people: Give me $1 million and I'll run for a Senate seat. I don't even have to be known in the district to start. With $1 million, I can become very well known and very well liked even though I have done nothing previously in the community. $1 million? Probably. That's what drives politics in this state. That's what drives the political operation. It's pure and simply money.

So it seems to me that if we're going to get at the heart of this money-driven government that we have, this big "For sale" sign that we let hang on every government building in New York State, whether it's contractors, people that want to influence the process of government, they all see that same "For sale" sign and what it says is if you give money to the political parties, you're going to drive the operation of government.

I think it's an outrage. I think that this motion ought to be heard. We ought to approve it. We ought to stand up and debate the merits of closing the only loop hole that really matters, the one that

threatens, I think, the whole notion of representative democracy and maybe then we can debate things like the continuing vitality of Buckley against Valerio which set our campaign system and somehow threw our notion of restricting contributions to political candidates, threw that notion into doubt because of the First Amendment.

I would point out to everyone that a democracy requires that every voice be heard. We now have a system where someone can buy the best megaphone and drown out every other voice with money. This motion, if it's heard in this chamber and this bill, if it passes, will guarantee that the people of this state have something comparable to an equal voice in their politics.

If we believe in representative democracy, the importance of individual contributions and we want to encourage individuals to be involved in politics, we'll approve this motion. We'll debate this bill and pass it and we'll re-invigorate political parties built on large numbers of people coming together under a common band and get

away from the notion that it's a few people who raised an awful lot of money and then sell the fruits of government in part in response to that money to perpetuate their power.

A terrible way to do business, a way that unfortunately has now become a bipartisan tradition in this state and in this nation, one that should never have started in the first place. If we hear this motion and pass this bill, we can put an end to it.

ACTING PRESIDENT MEIER: On the motion. All in favor of accepting the motion to discharge signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 23, nays 34. Party vote.

ACTING PRESIDENT MEIER: The motion is defeated.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. I would like to call up my motion in relation to Senate Bill 3346.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Leichter, Senate Print 3346, an act to amend the Election Law.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Mr. President, this is another bill that's really a "motherhood and apple pie" bill. There can be no philosophical difference.

What this bill tries to do is to stop the practice of bundling. We know that campaign limitations in this state are easily evaded by the bundling of contributions and under our laws there's no way to know whether contributions have been bundled because our disclosure forms do not require that you identify the person who solicited the contribution.

In New York City, we have such

a provision and it's been fairly effective in stopping the bundling of contributions. If we say we're going to have campaign limitations, then we need to spell it out in such a way that it can be enforced, it can be effective and above all that the public will know who is contributing the amount -- what amounts to a candidate. If you bundle, there's no way of having that disclosure. There's no way of enforcing the campaign limitations because you failed to identify who it is that bundled this money.

So this bill, very simply, says that there will be adequate disclosure, and I urge that this bill be passed. I urge that the Republican Majority show some commitment to cleaning up the mess and the abuses in our campaign finance law.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I couldn't let the opportunity go by that the use of the term "bundling" is again part of the problem here. We have soft money. We have housekeeping accounts and we

have bundling, this wonderful term that you would apply to a mother bundling her child as though this is something close to the heart of every American. Well, bundling in this case is, in my judgment, a simple substitute for the term hornswoggling. What you do is you hornswoggle the public because you don't tell them who you're carrying their cash for. This is walk-around cash. You gather a little bit from everybody. You put it in a little convenient bundle. They used to call them black bags, but I guess they don't call it black bagging anymore. This would a sinister connotation of buying elections. No, we wrap it up in this little convenient euphemism called bundling and somehow it's okay. It's black bag politics. It's the old kind of politics that no one liked. It's the politics of anonymity. It's the politics of buying government with anonymous amounts of cash. It's a horrible practice.

Again, bring this to the floor. I would suggest to my Republican colleagues, you know this is bad politics. You know this is a throwback to the days when

elections were won by giving people $2 bills. That's what this is all about. It's black bag politics. It has no place in New York. Approve this motion. Debate this bill. Pass it and we can get the other house -- we can call a Conference Committee and the Election Committee and we'll have a Conference Committee about whether it's wise to allow black bag politics in New York State.

It's a bad idea. Stop it.

ACTING PRESIDENT MEIER: On the motion -- Senator Oppenheimer.

SENATOR OPPENHEIMER: The League of Women Voters has registered their voice in the prior bill, and I would like, as a past League of Women Voters president, to get this on the record.

They state in their memo in support of Senator Leichter's bill 3347 that they understand it's clear that monied special interests giving to those in power in both parties have greatly enhanced access and influence in New York State's government and by limiting the contributions to this housekeeping account to the actual expense of

maintaining the headquarters and the staff at the headquarters, that they feel that abuses of this could be eliminated and, most importantly, that the public would again have confidence in their political process, and this has been an area of keen concern to the League of Women Voters that the perception out there is that money is -- is making the decisions, not the issues in the policy but rather the monies in the policy. They take a very strong stand in favor of limiting the housekeeping accounts.

I wanted to get that on the record.

ACTING PRESIDENT MEIER: On the motion, all those in favor of accepting the motion to -- Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, with no objection from Senator Leichter, I would like to bundle the votes from the Minority Conference and cast a party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 23, nays 34, party vote.

ACTING PRESIDENT MEIER: The motion is defeated.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. Would you please call up Senate 3306, please?

THE SECRETARY: The Secretary will read Senator Leichter's motion with regard to Senate 3306.

THE SECRETARY: By Senator Leichter, Senate Print 3306, an act to amend the Public Officers Law.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. This particular motion relates to a bill. It doesn't deal with campaign financing but it does deal with ethics in government.

This bill limits the outside income of our statewide elected officials to end the practice of statewide officials going out and making speeches for large honorariums.

Obviously this has become a problem, and let me just say right off from the -- right at the beginning, it was not a problem just in this administration, it was a problem with the previous governor also, and if somebody says, Well, how come you put this bill up only when there's a Republican governor? Why didn't do you it when there was a Democratic governor?

I want to do a mea culpa. I should have. It was wrong then and it's wrong now, but the fact that we failed to take action when the previous governor spent a fair amount of time going around in this state or -- I don't believe he did it in this state but outside of the state, giving speeches for honorariums, we should have stopped it, but because we didn't doesn't mean that we ought to allow a practice to continue that is clearly wrong.

I think it's wrong of the

present governor to go out and do this. I think we ought to demand of our statewide elected officials that they not work for any other outside interests, that there not be any conflict, that their whole dedication be with their job of serving the people of the state of New York and that they not look for making outside income by giving speeches before various special interest groups.

So this is a good bill, something we should do, something we all ought to go on record as saying, Let's end that particular ethical abuse that exists in New York State.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill. I think Senator Leichter has raised an issue that we're all guilty of in practicing what sometimes I call the politics of confusion.

We're against something when another party is in the Executive Mansion or has attained some kind of power and then, when we have the opportunity to change it, suddenly

there is actually no change, and it doesn't really matter who's in office. It is a point worth noting that huge sums of money have been made, not only in this state but in other states, by elected officials going out and speaking before groups. It certainly taints the process. It's something that the House of Representatives of the United States has put a stop to and, with Senator Leichter's ambitious gesture today, we can put a stop to it here.

I'm in favor of the motion.

ACTING PRESIDENT MEIER: On the motion, all in favor of accepting the motion to discharge, signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative.

SENATOR SKELOS: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 23, nays 34. Party vote.

ACTING PRESIDENT MEIER: The

motion is defeated.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. If I could call up Senate 3490-A, please.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Leichter, Senate Print 3490-A, an act to amend the Election Law and the County Law.

SENATOR LEICHTER: Mr. President, this bill that I seek to have discharged from committee deals with a whole mechanism of how we enforce the Election Law and the Campaign Finance Law and seeks to get rid of the political Boards of Elections that we have now, both on the county level as well on the state level, and seeks to make election like any other governmental function, one that the executive is responsible for and not the political parties as is presently the case.

There's just no justification for saying that, Well, we'll have the Republicans and the Democrats together run the election machinery in this state.

This is a governmental function. Elections are just too important. They're really the crux of our Democratic system of government, and they ought to be run in a totally non-political manner.

Obviously that's not the case. Let me just say, in the state Board of Election that we have now, it's a prescription for immobilization. It's a prescription for not doing anything because you have two Republican members, you have two Democratic members. Anything controversial, they deadlock two-two and no action is taken and very often, as we know, the Republican and the Democratic members, whether on the state level, on the local level, will join together to keep down insurgents in either party.

It's just wrong. We've all been part of this system, but there comes a time when it just cries out for change, and I think that time probably passed some time ago but we can certainly take this action now and give the people of the state of New York a fair, impartial, non-political election machinery.

Thank you.

ACTING PRESIDENT MEIER: On the motion, all those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

Motion to discharge is defeated.

Senator Leichter.

SENATOR LEICHTER: Mr. President, I call up now Senate 3493.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Leichter, Senate Print 3493, an act to amend the Public Officers Law and the Penal Law.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Yes. Mr. President, this bill which I seek to discharge, again tries to clean up what is an abuse in government, what is a failure in the present law, what is a loophole in the way we conduct business.

Presently there's no prohibition on state commissioners, other high state officials going out and engaging in political fund-raising. This has led to clear conflict of interest problems, where commissioners have gone out and raised money from industries that they're supposed to regulate and supervise.

We've just had too many examples of that in past administrations and certainly in the present administration. We should not have our state commissioners, their state officials -- they work for all the people of the state of New York. They should not be engaged in political fund-raising.

This bill seeks to end the present practice and loophole that exists.

ACTING PRESIDENT MEIER: On the motion, all those in favor of the motion to discharge signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The motion is defeated.

Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. If you would call up Senate 3650.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Leichter, Senate Print 3650, an act to amend the Election Law.

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Yes, Mr. President. This particular bill that I seek to discharge by this motion seeks to close another glaring loophole in our campaign finance law. We presently provide in our campaign finance law for party committees. Party committees are not held to the same limitation as are committees for individual candidates but party committees can transfer unlimited amounts to individual candidates. So if a particular candidate has max'ed out with a contributor, that contributor can give much larger sums to the party committee and the party committee can transfer unlimited

amounts to a candidate.

Again, it makes a mockery of the limitations that we have in law, and what has happened in recent years is that particularly the legislative party committees of the four conferences have gone out and raised very large sums of money, the very large sums of money, of course, by the two Majority Conferences and their party committees, the Democrats, the Assembly and the Republicans and the Senate. This really gives the appearance of legislation for sale, the amounts that are raised, the magnitude of the individual contributions and, of course, the joke in the Election Law and the campaign finance law is that those committees are then able to transfer as much money as they want to in any campaign that they choose, and that's one of the reasons, of course, that campaigns for the Assembly, campaigns for the Senate are costing such great amounts or there's such a great expenditure of monies because most of it flows through the legislative party committees.

It's just wrong. We just

shouldn't allow those committees to contribute any more than any other contributor. Put that limitation on, and you will decrease substantially the amount that's spent in Senate campaigns and in Assembly campaigns and will help in avoiding the appearance that legislation in the Senate and in the Assembly is for sale.

Move the motion, Mr. President.

ACTING PRESIDENT MEIER: On the motion, all those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(Response of "Nay".)

The motion to discharge is defeated.

Senator Leichter.

SENATOR LEICHTER: Mr. President, that finishes my motions for the day, and I thank you and my colleagues.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like the record to show

that had I been present in the house last week when we voted on Calendars 303 and 305, I would have voted in the negative.

ACTING PRESIDENT MEIER: The record will so reflect.

SENATOR MONTGOMERY: Thank you.

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: No, there is not.

SENATOR SKELOS: There being no further business, I move we adjourn until Tuesday, March 17th, at 3:00 p.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, March 17th, at 3:00 p.m.

(Whereupon, at 4:04 p.m., the Senate adjourned.)