ALBANY, NEW YORK

March 26, 1998

11:05 a.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'd ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

In the absence of clergy, may we now bow our heads for a moment of silence.

(A moment of silence was observed.)

The reading of the Journal.

THE SECRETARY: In Senate, Wednesday, March 25th. The Senate met pursuant to adjournment. The Journal of Tuesday, March 24th, was read and approved. Upon motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from

state officers.

Motions and resolutions.

Senator Alesi.

SENATOR ALESI: Mr. President, on page 20, I offer the following amendments to Calendar Number 432, Senate Print 5174, 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, if we could take up the non-controversial calendar, please.

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

THE SECRETARY: Calendar Number 53, by Senator Farley, Senate Print 2338, an act to amend the Education Law, in relation to authorizing.

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 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 194, by Senator Maziarz, Senate Print 5083-A, an act to amend the Executive Law, in relation to directing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 327, by Senator Seward, Senate Print 4278, an act to amend the Public Service Law, in relation to increasing.

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 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 351, by Senator Trunzo, Senate Print 6179, an act to amend the Retirement and Social Security Law, in relation to the maximum amount.

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 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 381, by Senator Rath, Senate Print 3638-A, an

act to amend the Town Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 386, by Senator Skelos, Senate Print 334, an act to amend the Education Law, in relation to notification.

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.

SENATOR GOLD: Excuse me.

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

SENATOR GOLD: What number is it?

ACTING PRESIDENT MEIER: This would be Calendar 386, Senator Gold.

SENATOR GOLD: Did we skip 385?

ACTING PRESIDENT MEIER: 385 is high, Senator Gold.

SENATOR GOLD: Excuse me?

ACTING PRESIDENT MEIER: 385 is high, Senator.

SENATOR GOLD: Thank you, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will continue to read -- we were on 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 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

400, by Senator Kuhl, Senate Print 1828-B, an act to amend the Judiciary Law, in relation to increasing.

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 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 428, by Senator LaValle, Senate Print 2466, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 433, by Senator Trunzo, Senate Print 6029, an act to amend Chapter 41 of the Laws of 1997.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 452, by Senator Saland, Senate Print 64...

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 453, by Senator Velella, Senate Print 92-A, an act to amend the Penal Law, in relation to arson.

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 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 455, by Senator Goodman, Senate Print 414, an act to amend Penal Law, in relation to computer networks.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. 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 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

513, by Senator Nozzolio, Senate Print 6505, an act to amend Chapter 887 of the Laws of 1983.

SENATOR GOLD: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

SENATOR SKELOS: Mr. President, if we could take up the controversial calendar at this time.

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

THE SECRETARY: Calendar Number 452, by Senator Saland, Senate Print 6467, an act to amend Chapter 705 of the Laws of 1993.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MEIER: Senator Saland, an explanation has been requested of Calendar Number 2... I'm sorry -- 452.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, the link deposit program is a program which has met with great success, great acclaim, in fact. It's a means

by which particularly small businesses can access loans at rates lower than market rates and the means by which that occurs is that these rates, which is some two to three points blow market rates, are, in effect, encouraged by the state making deposits which are comparably at lower -- excepting interest rates -- at comparably lower rates. The net result is that state dollars are pumped in to basically benefit small businesses throughout the state of New York.

This bill would extend that program. It's due to sunset, I believe on or about the 1st of April. It changes the name from the Excelsior to the Empire State Link Deposit Program and also would permit a borrower to receive more than one loan but not to exceed the existing cap of that loan.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Saland would yield for a question.

ACTING PRESIDENT MEIER: Does the

Senator yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

Senator Paterson.

SENATOR PATERSON: Mr. President, as Senator Saland pointed out, the link deposit program has been a vital link between small business and the financial industry. My concern relates to the discrepancy between the Senate bill and the Assembly bill.

The Assembly bill appropriates another $50 million, 25 million coming from the comptroller's office and 25- coming from tax and finance which would expand the overall amount to $200 million. At this point the program is supported not by any state appropriations but rather by existing resources and investment.

I was wondering if Senator Saland could amplify for me the reason that this discrepancy between the two bills exists.

SENATOR SALAND: Well, Mr. President, there has been over the course of the past week or two an interest expressed by the

Assembly to make some changes in this bill. My concern, whether it deals with the subject of appropriation or some of the other changes that have been proposed, is that as we approach the April 1 deadline, I would not want to see the program prejudiced by not having it continued. These are all things which will be subject to negotiation. Right now this is a rather revenue neutral measure. We certainly would welcome the dialogue with the Assembly and we're certainly willing to entertain anything that they might want to put on the table. Whether, in fact, that will ultimately be part of the three-way agreement remains to be seen, but my concern here today as we are here on the last session day of this week and as we approach the 31st of March, is that we pass an extender. This extender effectively -- this is effectively no more an extender with some very minor modifications.

SENATOR PATERSON: Thank you, Mr. President.

If Senator Saland would continue to yield.

ACTING PRESIDENT MEIER: Does the

Senator continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

Senator Paterson.

SENATOR PATERSON: Senator, you may well have answered my second question with your response to the first. I was going to ask you would you consider as the Assembly has including a lot of farm projects which can be found in their bill which right now are in great need of the kind of reductions in rates particularly for loans that could perhaps come under the umbrella of this legislation, and I would take from your first answer that the kind of need to pass this legislation at this time and to try to get this worked out before March 31st or April 1st would be, you're saying, the feeling on an issue such as the farm projects program.

SENATOR SALAND: Well, I'm certainly aware of the -- that provision in the Assembly bill. We look forward to working with the Assembly to try and see how we can succeed

in expanding what I think by everybody's acknowledgment has been an extremely successful program. We are not adverse to entertaining that.

My concern, as I said earlier, is not to permit this to sunset. We believe that there will be some changes, some substantive changes that will be made, Mr. President, but I greatly fear that with March 31st being just around the corner that the negotiations will not be able to be brought to a swift enough conclusion to enable us to accomplish that.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Then I guess I would -- if Senator Saland would yield.

ACTING PRESIDENT MEIER: Does the Senator yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator Saland continues to yield.

SENATOR PATERSON: Senator, I

understand your concern for meeting the deadline, but it's not as if the Senate itself can bring the deadline or come in under the deadline just with the legislation that we're passing here. In other words, if the Assembly is insistent on those other two measures, it's going to be hard to pass a bill at all.

So, in other words, isn't it true that perhaps by some negotiation or some recognition of the farm projects program or the extra 50 million that the Assembly is proposing, that we can get this done as quickly as you would like, but it's not as if we have to stand on the status quo just to meet the deadline.

SENATOR SALAND: Well, I would not be as confident as you that that can be accomplished, and I would not want to see, as I said earlier, this program sunset. I feel confident that there will be some changes. There's some changes that the Senate -- or expansions in the program that the Senate is interested in, I believe, again, that you have outlined or certainly highlighted one of the things that the Assembly is interested in. There's nothing that will not be appropriately

the subject of discussion. Where we will wind up, Senator Paterson, I really can't tell you, but as you and I both know, if both parties come to the table with an interest in expanding, there will certainly have to be some type of accommodations that deal with the respective - the respective parties' priorities and I'm not ruling out, as I said earlier, dealing with any one of those particular items.

I should also point out, and I'm sure you're aware, I believe this is a departmental -- certainly the Governor will have a lot to say in what the final form of this bill will be as well.

SENATOR PATERSON: Thank you, Senator.

I have just one last question, if you'll continue to yield.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Senator, I

felt that the reason that this program was brought into existence was to try to encourage opportunity, particularly for smaller businesses. I believe 13 out of every small businesses that start -- 13 out of every 15 small businesses that start after commencing don't exist after their first year and particularly in minority areas where the availability of capital may not be as opportunistic, that there is -- the reduced rate is particularly helpful, but it somewhat concerns me that the data that I see on the topic reveals that only six percent of the loans have gone to businesses in New York State.

Now, in my particular district - I'm sorry -- in New York City. I'm sorry. In my particular district there have been a few loans, but understanding what the real scope of the program was and certainly what its credo is, it's a little disappointing to find out that the areas that would probably benefit the most are getting such a small percentage of the loans.

Would you share that concern and have any idea as to how perhaps we can bring what is -- extend this program from what now is

what I would describe as more than a scintilla of appropriation -

SENATOR SALAND: Mr. President, could I beg the Senator's indulgence. It's awfully noisy and I'm finding it a little difficult to hear.

ACTING PRESIDENT MEIER: Can we have some order in the house. Members stop their conversations.

Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

I was just closing, Senator Saland, just by saying that it's certainly more than what I would describe as a scintilla of opportunity, but it is not nearly what I would consider to be comprehensive or representative.

ACTING PRESIDENT MEIER: Senator Saland, as puzzled the Chair is, is there a question in there?

SENATOR SALAND: Was Senator Paterson closing or was there a question?

SENATOR PATERSON: No. My question was that being that only six percent of the loans are going to businesses that exist in

New York City, doesn't this fail to coincide with what would really be the credo of the program to extend opportunity to smaller businesses, particularly in minority neighborhoods where the need is greater and the availability to capital is less than it would be in other areas and that with such a small percentage of the loans going to areas where it would be needed the most, would you have any suggestion as to how to increase the resources in these particular locations that don't seem to be on the track for receiving the loan advantages?

SENATOR SALAND: Well, let me just suggest that I cannot account for the internals of the process. For instance, I have no idea of how many applications may be emanating from banks in the Metropolitan -- in the New York City area compared to banks perhaps in more rural areas where this may be a far more attractive loan mechanism because the kinds of dollars involved in the loans might be considered more substantial bigger loans than might be the case in some of the major New York banks. So some of the problem -- and I don't

know this to be the case, Senator Paterson - they simply reflect where the applications are coming from.

Secondly, I would suggest to you that in order for the program to be effective, I think there has to be a degree of flexibility and that we certainly should be looking at every region in the state, whether it's -- when I say "we", I'm being collective. Let me say they should be looking at every region in the state as should we, whether it be New York City, whether it be the mid-Hudson, whether it be the Adirondacks or Western New York and what we should be doing is, in effect, dealing with the applications in an equitable fashion.

I would not want to pigeonhole certain areas as being priority areas. I would much prefer having a flexible program that responds to the applications on, in effect, a need plus certainly sound banking practice basis.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: Mr. President, Senator Saland is right. If there are fewer applications coming from New York City, then what we would really be trying to encourage the program is to engage in more of a marketing program so that those who are starting businesses and those who would be eligible would become aware of the availability of the program.

If there is a reasonable number of applications coming from New York City that causes the six percent overall number to be as not only accurate but reflecting a poor percentage, then I would suggest that Senator Saland's point is also right that we should not have any priority regions and if the latter supposition is true, then apparently there must be some priority regions because New York City and some of the areas that would probably be best served by this type of program are for some reason either systemically or with unawareness or naively being excluded from the program.

I'll vote for the bill with the admonition that somebody needs to take a look at that because this was the whole real idea when it was proposed as the Excelsior Link Deposit Program some years ago. I notice that the Assembly still calls it that. The Senate has changed the name to the Empire State Link Deposit Program and the name really doesn't make a difference as long as the two houses agree and the title doesn't really make a difference as long as what was in contemplation of those who first proposed this program is actually brought to fruition actually to provide for small businesses for people who throughout the years have incurred the greatest difficulty receiving these types of benefits which can inure to the overall financial benefit of the states and even the banks that actually provide these loans, that this is something that would be a marvelous idea if it actually works, and that's why I would choose to support the bill and encourage everyone else to do so, Mr. President, but I'm going to take a look to see what the numerical value of the applications are, because if it's not the case, if we are getting a lot of

applications that are not being acted upon, then I think when we come back at some other point we'll have to take a second look at it, but I hope that those who are in the decision-making capacities and can act on this will recognize that there are a lot of businesses all over the state, many of them in New York City, many of them with an opportunity to flourish with the same type of treatment as their companion businesses all throughout the rest of the state have received.

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 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 513, by Senator Nozzolio, Senate Print 6505, an act to amend Chapter 887 of the Laws of 1983.

SENATOR GOLD: Explanation.

ACTING PRESIDENT MEIER: Senator Nozzolio, an explanation has been requested of Calendar Number 513.

SENATOR NOZZOLIO: Who requested the explanation, Mr. President?

ACTING PRESIDENT MEIER: The explanation was requested by Senator Gold.

SENATOR NOZZOLIO: Thank you, Mr. President.

This measure extends the authorization of psychological testing for candidates for the position of correction officer for two years.

ACTING PRESIDENT MEIER: Explanation satisfactory?

(Senator Gold nods head.)

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 51.

ACTING PRESIDENT MEIER: The bill

is passed.

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

SENATOR SKELOS: Please recognize Senator DeFrancisco.

ACTING PRESIDENT MEIER: Senator DeFrancisco.

SENATOR DeFRANCISCO: I request unanimous consent to vote in the negative on Calendar 381, please.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be recorded in the negative on Calendar Number 381.

Senator Skelos.

SENATOR SKELOS: Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: Nothing at the desk, Senator.

SENATOR SKELOS: There will be an immediate conference of the Majority in the Majority Conference Room as we end session, and I believe Senator Paterson has an announcement also.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

There will be a conference of the Minority, plus Senator Goodman, if he would like to join us. He declines respectfully. I would also join that conference if I knew what time it was -- oh, immediately, immediately after session.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Immediate meeting of both Majority and Minority Conferences after session.

Senator Skelos.

SENATOR SKELOS: There being no further business, I move we adjourn until Monday, March 30th, at 3:00 p.m., intervening days being legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Monday, March 30th, at 3:00 p.m. Intervening days will be legislative days.

(Whereupon, at 11:29 a.m., the Senate adjourned.)