ALBANY, NEW YORK

June 8, 1998

3:07 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.)

May we bow our heads that moment of silence.

(A moment of silence was observed.)

The reading of the Journal, please.

THE SECRETARY: In Senate, Sunday, June 7th. The Senate met pursuant to adjournment. Senator Farley in the chair, upon designation of the Temporary President. The Journal of Saturday, June 6, was read and approved. On motion, the Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President.

Amendments are offered to the following Third Reading Calendar bills: On behalf of Senator Alesi, on page number 4, Calendar Number 40, Senate Print Number 4942C;

On behalf of Senator Farley, page 13, Calendar Number 502, Senate Print Number 4246;

On behalf of Senator Balboni, on page number 17, Calendar Number 618, Senate Print Number 6995;

On behalf of Senator Wright, page number 23, Calendar Number 737, Senate Print Number 7318;

On behalf of Senator Skelos, page number 31, Calendar Number 922, Senate Print Number 6427D;

On behalf of Senator Maziarz, on page 33, Calendar Number 952, Senate Print Number 7248A;

On behalf of Senator Libous, on page number 33, Calendar Number 958, Senate Print Number 6145B;

On behalf of Senator Kuhl, on page number 42, 1117 is the Calendar Number, Senate Print Number 6743.

Madam President, I now move these bills retain their place on the Third Reading Calendar.

THE PRESIDENT: Amendments received.

Senator Libous.

SENATOR LIBOUS: Thank you, Madam President.

I would like to place a sponsor's star on my bill, Calendar Number 52.

THE PRESIDENT: So ordered.

SENATOR LIBOUS: And on behalf of Senator Alesi, Madam President, I wish to call up his bill, Print Number 6133A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The secretary will read.

THE SECRETARY: Calendar Number 760, by Senator Alesi, Senate Print 6133A, an

act to amend the General Business Law.

SENATOR LIBOUS: I move to reconsider the vote by which this bill was passed.

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 37.

SENATOR LIBOUS: I offer the following amendments.

THE PRESIDENT: Amendments received.

Senator Meier.

SENATOR MEIER: Madam President, I wish to call up my bill, Print Number 6927A, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 887, by Senator Meier, Senate Print 6927A, an act to amend the Military Law.

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

by which the bill was passed.

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 37.

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

THE PRESIDENT: Amendments received.

SENATOR MEIER: Madam President, I wish to call up Senator Spano's bill, Print Number 5372B, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: Secretary will read.

THE SECRETARY: Calendar Number 73, by Senator Spano, Senate Print 5372B, an act to amend the Social Services Law.

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

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll

on consideration.)

THE SECRETARY: Ayes 37.

SENATOR MEIER: Madam Presi

dent, I now offer the following amendments.

THE PRESIDENT: Amendments

received.

SENATOR MEIER: Madam

President, I wish to call up Senator Saland's bill, Print Number 5563, recalled from the Assembly which is now at the desk.

THE PRESIDENT: The Secretary

will read.

THE SECRETARY: Calendar Number

423, by Senator Saland, Senate Print 5563, an act to authorize the Commissioner of General Services.

SENATOR MEIER: I now move to

reconsider the vote by which this bill was passed.

THE PRESIDENT: Call the roll

on reconsideration, please.

(The Secretary called the roll

on reconsideration.)

THE SECRETARY: Ayes 37.

SENATOR MEIER: Madam Presi

dent, I now offer the following amendments.

THE PRESIDENT: Amendments received.

SENATOR MEIER: Thank you, Madam President.

THE PRESIDENT: Senator Rath.

SENATOR RATH: Madam President, I wish to call up my bill, Print Number 3636, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 9, by Senator Rath, Senate Print 3636, an act to amend the General Municipal Law.

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

THE PRESIDENT: Call the roll on reconsideration, please.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 37.

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

THE PRESIDENT: Amendments received.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President. Would you please place a sponsor's star on Calendar 870, Senate Print 6676, and on Calendar 872, S. 7375.

ACTING PRESIDENT MEIER: So ordered.

The Secretary will now read the substitutions.

THE SECRETARY: On page 47, Senator Marcellino moves to discharge from the Committee on Rules, Assembly Bill Number 5982A, and substitute it for the identical Third Reading Calendar 1192.

On page 47, Senator Hannon moves to discharge from the Committee on Rules Assembly Bill Number 10851 and substitute it for the identical Third Reading Calendar 1193.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Skelos.

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

sponsored by Senator Lack. May we please have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the title.

THE SECRETARY: By Senator Lack, Legislative Resolution 3812, honoring Peter White, a social studies teacher at Northport High School, upon the occasion of his selec tion as New York State Teacher of the Year.

ACTING PRESIDENT MEIER: The question is on the resolution. All those in favor of the resolution signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there is a concurrent resolution at the desk, 3617; I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator

Bruno, Concurrent Resolution 3617 of the Sen ate and Assembly, authorizing the Temporary President of the Senate and the Speaker of the Assembly to file an election to make certain officers and employees of joint legislative employers eligible for the retirement incent ive offered by Chapter 41 of the Laws of 1997 as extended by Chapter 47 of the Laws of 1998 as amended.

The Assembly sends for concur rence Assembly Concurrent Resolution 2336, identical with Senate Concurrent Resolution 3617.

ACTING PRESIDENT MEIER: Substitution ordered.

The question is on resolu tion. All those in favor signify by saying aye.

(Response of "Aye.").

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there is another resolution at the desk,

Number 3616; I ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: By Senator Bruno, Senate Resolution 3616, authorizing the Temporary President of the Senate to file an election to make certain officers or employees of the Senate eligible for the retirement incentive offered by Chapter 41 of the Laws of 1997 as extended by Chapter 47 of the Laws of 1998 as amended.

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

(Response of "Aye.").

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, there is a resolution at the desk sponsored by Senator Wright, which was adopted on June 2nd. May we please have it read in its entirety?

ACTING PRESIDENT MEIER: The

Secretary will read.

THE SECRETARY: By Senator Wright, Legislative Resolution 3730, congrat ulating and commending the 1998 New York State winners of the United States Small Business Administration Small Business Awards.

Whereas, small business owners embody the entrepreneurial spirit which has fueled the economy of our country since its founding; and

Whereas, small businesses create two out of every three new jobs and train most workers entering our economy. They account for 99.7 percent of all United States employers and employ 60 percent of the private work force. Small businesses are responsible for 54 percent of all United States sales. They account for 40 percent of the Gross National Product and 21 percent of the nation's exports. Small business owners contribute significantly to New York State, risking their personal wealth and devoting countless hours to their businesses in order to provide jobs and produce goods and services for the people of the state of New York; and

Whereas, each year the United States Small Business Administration, in partnership with public and private sector small business supporters, honors the outstanding contributions of small business persons, advocates and exporters. The SBA's annual Small Business Awards program recognizes the important contributions the small business community makes to the nation and the state's economy in stimulating the economy and in creating new job opportunities; and

Whereas, this legislative body is proud to recognize and applaud the 1998 New York State recipients of the United States Small Business Administration's Small Business Awards, all of whom exemplify the drive and determination of small business people who have brought success to both themselves and New York State and to commend them for their hard work and dedication to their businesses and their communities; and

Whereas, the 23 1998 New York State Small Business Award winners are: Small Business Person of the Year, Christian DelPrince, President of DelPrince Fashions,

Limited, Buffalo District; Lawrence A. Castiglia, President of Tennyson Machine Company, Incorporated, New York District; Gilbert Rivera, President of M & G Water proofing, Incorporated, New York District; and William G. Ballard, President of Norwich Aero Products, Incorporated, Syracuse District.

Minority Small Business Advocate of the Year, Dorothy C. Johnson, President of Johnson Security, Incorporated, New York District. Women in Business Advocate of the Year, Gretchen E. Stringer, Senior Vice-president of the Non-profit Management Center, Buffalo District; Judith K. Beckman, Managing Director of Financial Solutions, New York District; and Marilyn McCall Wiles, President of ALERT, Syracuse District.

Veteran Small Business Advocate of the Year, Gary R. Heuck, Local Veterans Employment Representative, New York State Department of Labor, Buffalo District; Michael J. Handy, Director of the New York City Mayor's Office of Veterans' Affairs, New York District; and Harold E. Schultz, National Service Officer/Supervisor, Disabled American

Veterans, Syracuse District.

Accountant Advocate of the Year, James T. Keefe, partner at Fiddler and Company, Buffalo District; and Rochelle C. Barnett, partner at Marks Shron & Company, New York District.

Financial Services Advocate of the Year, Brenda L. Copeland, President and Director of the Bank of Castile, Buffalo District; Roslyn D. Goldmacher, Executive Director of the Long Island Development Corporation, New York District; and David Terrenzio, Senior Vice-president and Senior Loan Officer of the New York Business Development Corporation and the Empire State Certified Development Corporation, Syracuse District.

Media Advocate of the Year, Sylvia F. Paterson, Independent Television Producer, New York District; and Elizabeth Doran, Reporter, Syracuse Newspapers, Syracuse District.

Small Business Exporter of the Year, Olga Cohen, President of Olga G. Marcus Cosmetics, Incorporated, New York District and

Jason Levinthal, President of Line Skiboards Manufacturing, Incorporated, Syracuse District

Phoenix Award, Ursula Garreau Rickenbacher, President and Chief Executive Officer of Ursula of Switzerland, Syracuse District; and Jeanie D. Roberts, Executive Director of the American Red Cross, Clinton Northern Essex Chapter, Syracuse District.

Welfare to Work Award, Richard W. Rank, President of Rank's IGA, Buffalo District.

Whereas, all these United States Small Business Administration Award winners have contributed through their success and involvement in the small business sector to the economic strength of their communities, their state and their country; and

Whereas, these New Yorkers exemplify the values of diligence, initiative and independence which make small business such a vital sector of New York State's economy; now, therefore, be it

Resolved, that this legislative body pause in its deliberations to extend its congratulations to these New Yorkers upon the

occasion of their designation by the United States Small Business Administration as 1998 Small Business Award winners and to express its pleasure at having the opportunity to honor them at a luncheon to be held on Monday, June 8, 1998; and be it further

Resolved, that copies of this resolution, suitably engrossed, be transmitted to the aforementioned honorees.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Prior to your recognizing Senator Wright, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

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

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

Earlier today, I had the privilege of joining Majority Leader Bruno, Senator Present, as chair of the Economic

Development and Commerce Committee, to recognize the award winners who were just identified and recognized in the resolution presented here to the Senate previously last week when we formally adopted the resolution, and today we actually have the awardees and the award winners here joining us today in the Capitol.

I think it's very evident to all of us as we annually take up legislation that addresses small business, the importance that small business place in each of our individual communities but as well to the entire economy of the state of New York and the strong recovery that small businesses have made, particularly in the last four years as this Senate, led by Senator Bruno, led by Senator Stafford, as chair of the Finance Committee, have delivered on the tax cuts that have been promised, have delivered on the reforms in Workers' Compensation, have changed the estate laws so that small businesses not only have the opportunity to receive a return on their investment and grow that business, but also have the opportunity to pass that

small business on to their family and to their sons and daughters.

We're here today to recognize and honor those individuals; and you'll notice that the award winners represent businesses and different types of businesses from throughout the state, upstate and downstate, all in their own successful endeavors have accomplished what all New Yorkers want to see accomplished for their businesses.

So I would ask the awardees to stand and I would ask my colleagues to recognize them. Thank you for joining us today.

(Applause)

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The resolution was previously passed on June 2nd.

On behalf of the Senate, we welcome you here today and we congratulate you on your very impressive accomplishments.

Senator Kuhl.

SENATOR KUHL: Mr. President, can we now take up the non-controversial calendar, please?

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

THE SECRETARY: Calendar Number 558, by Senator Nozzolio, Senate Print 6333A, an act to legalize, validate and confirm certain actions with respect to the issuance of serial bonds.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 612, by Senator Velella, Senate Print 577C, an act to amend the Insurance Law, in relation to providing premium reductions.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 836, by Senator Volker, Senate Print 5009B, an act to amend the Civil Practice Law and Rules, in relation to requiring disclosure.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in 60 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 864, by Senator Marchi, Senate Print 6646B, an act to amend the Business Corporation Law, the Limited Liability Company Law and the Partnership Law, in relation to mergers.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect in 60 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 868, by Senator Farley, Senate Print 4717B, an act to amend the Banking Law, the Estates Powers and Trusts Law, and others, in relation to including the Uniform Transfers to Minors Act.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 919, by Senator DeFrancisco, Senate -

SENATOR KUHL: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 915, by member of the Assembly Clark, Assembly Print 9827, an act to amend Chapter 993 of the Laws of 1981.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 923, by member of the Assembly Sweeney, Assembly Print 10023A, an act to amend the Public Health Law, in relation to making a technical correction.

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 47.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Mr. President, can we go back to 868?

ACTING PRESIDENT MEIER: The Secretary will read.

SENATOR KUHL: I would like to

have the Secretary read -- well, maybe I should do it this way, Mr. President. I would like to move to reconsider the vote by which Calendar Number 864 passed the house.

ACTING PRESIDENT MEIER: The Secretary will call the roll on reconsideration.

THE SECRETARY: Calendar Number 864, by Senator Marchi, Senate Print 6646B, an act to amend the Business Corporation Law.

SENATOR KUHL: Now, Mr. Presi dent, I understand there is a substitution at the desk; can we have that read, please.

ACTING PRESIDENT MEIER: We'll have to lay it aside, Senator. It's not at the desk yet.

SENATOR KUHL: Okay. Lay the bill aside temporarily.

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

Secretary will call the roll on reconsideration on Calendar 864.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill will be temporarily laid aside. The Secretary will resume in regular order.

THE SECRETARY: Calendar 919, by Senator Volker, Senate Print 395, an act to amend the Public Health Law, and others, in relation to establishing a program.

SENATOR OPPENHEIMER: Lay it aside -

SENATOR VOLKER: Excuse me, Mr. President. Would you lay that aside for the day, please?

ACTING PRESIDENT MEIER: The bill will be laid aside for the day at the request of the sponsor.

THE SECRETARY: Calendar Number 936, by Senator Maltese, Senate Print 7021A, an act to amend the Public Officers Law, in relation to the conviction of persons.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 957, by Senator LaValle, Senate Print 5370A, an act to amend the Education Law, in relation to the duty of school districts.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect July 1.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1000, by Senator Holland, Senate Print 6005, an act to amend the Social Services Law, in relation to access to the statewide register.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1035, by Senator Lack, Senate Print 1265, an act in relation to certain assessment decisions rendered in the county of Suffolk.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1037, by Senator Balboni, Senate Print 7362, an act authorizing the assessor of the county of Nassau.

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 46, nays one, Senator Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1038, by Senator Meier, Senate Print 7426, an act to authorize the town of New Hartford to discontinue certain park land.

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

THE SECRETARY: Section 3.

This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46, nays one, Senator Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1183, by Senator Kuhl, Senate Print 1347B, an act to amend the Public Service Law, in relation to the establishment of rates and charges.

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

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

SENATOR DOLLINGER: Is this 1185?

ACTING PRESIDENT MEIER: 1183.

SENATOR DOLLINGER: My apologies.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1184, by Senator Wright, Senate Print 1416B, an act to amend the Tax Law, in relation to adding mining and extraction reimbursements.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. 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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1185, by Senator Montgomery, Senate Print 2575B, an act authorizing the city of New York.

ACTING PRESIDENT MEIER: The bill will be temporarily laid aside while we wait for the substitution.

The Secretary will read.

THE SECRETARY: Calendar Number 1186, by Senator Leibell, Senate Print 2920, an act to amend the Public Authorities Law, in relation to loan insurance.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1187, by Senator Rath, Senate Print 4413, an act to amend the Surrogate's Court Procedure Act, in relation to petitions for guardian ship.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1189, by Senator Alesi, Senate Print 6093, an act to amend the Penal Law, in relation to the minimum sentence upon conviction.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1190, by Senator DeFrancisco, Senate Print 6524, an act to amend the Highway Law, in relation to the state highway system in Onondaga County.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1191, by Senator Balboni, Senate Print 6630,

an act to amend the Penal Law, in relation to establishing a new crime of unlawfully dealing with a child.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1192, substituted earlier today, by member of the Assembly Sidikman, Assembly Print 5982A, an act to amend the Criminal Procedure Law, in relation to victim impact statements.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1193, substituted earlier today by the Assembly Committee on Rules, Assembly Print 10851, an act to amend the Chapter 904 of the Laws of 1984, amending the Public Health 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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1194, by Senator Volker, Senate Print 7356, an act to amend the Tax Law, in relation to

exempting certain sales of Internet access service.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4 -

SENATOR DOLLINGER: Lay that bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1195, by Senator Spano, Senate Print 7507, an act to amend the Tax Law, in relation to creating an exemption to the petitioner's burden of proof.

SENATOR KUHL: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 1197, by Senator Fuschillo, Senate Print 7542, an act to amend the Vehicle and Traffic Law, in relation to the right-of-way of vehicles.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1199, by Senator Bruno, Senate Print 7565, an act to authorize the city of Troy, county of Rensselaer, to discontinue the use and convey certain park lands.

ACTING PRESIDENT MEIER: There is a home rule message at the desk. 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 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1200, by Senator Volker, Senate Print 7591, an act to authorize the participation of the county of Erie in the renovation and operation of the county stadium sports and entertainment complex.

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

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR KUHL: Have the substitutions arrived on the two bills that were laid aside?

ACTING PRESIDENT MEIER: The desk is checking on that status.

SENATOR KUHL: Can we return to motions and resolutions. I understand there's an amendment motion at the desk.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President. On behalf of Senator Balboni, on page number 41, I offer the following amendments to Calendar Number 1092, Senate Print Number 7200, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: Amendments are received and the bill will retain its place on the Third Reading Calendar.

SENATOR KUHL: Mr. President, may we take up the controversial calendar and make the substitutions as we reach each bill in order?

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: On page 27, Senator Marchi moves to discharge from the Committee on Rules, Assembly Bill Number

10104A and substitute it for the identical Third Reading Calendar 864.

ACTING PRESIDENT MEIER: Substitution ordered.

Secretary will read.

THE SECRETARY: Calendar Number 864, by member of the Assembly Vann, Assembly Print 10104A, an act to amend the Business Corporation Law, the Limited Liability Company Law and the Partnership 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 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: On page 46, Senator Montgomery moves to discharge from the Committee on Rules, Assembly Bill Number 4212B and substitute it for the identical Third

Reading Calendar 1185.

ACTING PRESIDENT MEIER: Substitution ordered.

Secretary will read.

THE SECRETARY: Calendar Number 1185, by member of the Assembly Vann, Assembly Print 4212B, an act authorizing the city of New York to reconvey its interest in certain real property.

ACTING PRESIDENT MEIER: Read the last section -- there is a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1194, by Senator Volker, Senate Print 7356, an act to amend the Tax Law, in relation to exempting certain sales of Internet access

service.

SENATOR DOLLINGER: Explanation just briefly, Mr. President, if I could.

ACTING PRESIDENT MEIER: Senator Volker, an explanation has been requested by Senator Dollinger.

SENATOR VOLKER: Mr. President, this is a Governor's program bill which, in all candor, follows up on a bill that passed this house last year, essentially the same bill, except that this bill, according to the Governor's memo, provides even more coverage to exempt Internet services, Internet access of related services from state and local sales taxes.

The real truth about this bill is that it codifies a regulation of the Tax Department which was promulgated, I believe, in February of 1997.

As I say, we had had a bill, Assemblyman Shimminger and I had had a bill which was vetoed and the veto message said that the reason it was vetoed was because of the fact that the Governor's office felt that a broader bill that would cover the entire

area was necessary.

So, in keeping with that, that's exactly what this bill does and it deals with a couple of areas that were of concern to the Governor's office in relation to out-of-state services in this state because -- and I guess there was some confusion by some people in the committee meeting as to whether it would encourage people who were out of state to stay out of state; but, in reality, what the language would do is to make sure that people who deal with Internet services within this state and who gain revenue from it are not covered by sales taxes.

One of the problems here is, from what I've heard rumblings of it across the country that some other states have kind of looked at this and said, "You know, this is a good source of revenue. Maybe this is not such a good idea." But we, in New York, shouldn't take that attitude. The attitude we should take is that Internet services of this kind should not be taxed, and I think the Tax Department has already taken that position and

we think that this bill is necessary to make sure that such services are not taxed.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

Senator Volker, I think you responded to half of the questions that I asked in the Finance Committee and I think you're accurate with respect to the text of the bill.

Through you, Mr. President, if the sponsor will yield to just one question.

ACTING PRESIDENT MEIER: Does the sponsor yield?

SENATOR VOLKER: Certainly.

ACTING PRESIDENT MEIER: The Senator yields.

Senator Dollinger.

SENATOR DOLLINGER: Does this mean that the out-of-state seller of product, who puts his display ad on the Internet, that if a sale occurs based on that ad, that solicitation, that the sale is not subject to New York State sales tax?

SENATOR VOLKER: My counsel, I didn't realize he was here, scared me just now, that's why I was kind of jolted.

What I understand it would do, standing alone, I suppose that it might; but what the bill really stands for is it would have to have some connections in New York in order not to be taxed.

Now, if, however, the state where that Internet sale originated from was not taxed, then it would continue not to be taxed in New York. I don't know if you know what I mean.

SENATOR DOLLINGER: Yes.

SENATOR VOLKER: In other words, we really can only tax Internet services that either originate from New York or are services that, in effect, are taxed by someone out of state. But if they are not taxed by anyone out of state, we cannot tax that service and that's one of the things this makes clear because we would then have, if you think about it, an interstate commerce problem and this bill doesn't change that, except to make sure that we don't have that kind of

problem, otherwise we'd have a constitutional problem.

SENATOR DOLLINGER: Right.

Through you, Mr. President, just one other question.

ACTING PRESIDENT MEIER: Does the Senator yield for another question?

SENATOR VOLKER: I do.

ACTING PRESIDENT MEIER: The Senator yields.

Senator Dollinger.

SENATOR DOLLINGER: My understanding is that this bill would not alter the issue of the nexus between the seller of the product at some remote location and the buyer here in New York to affect both taxation and jurisdiction of our courts. It has no effect -- that's an independent inquiry apart from this.

SENATOR VOLKER: That's correct.

SENATOR DOLLINGER: Okay.

SENATOR VOLKER: And that's really the issue. I guess if there was really an issue in last year's bill it may be that

this really is kind of it because there was a question in that bill whether we amended the right section of the Tax Law and whether we may have -- could have created a constitutional issue, and apparently this part of the bill is what is an attempt to resolve that issue and the answer is yes, we don't change that.

SENATOR DOLLINGER: Okay. Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: I appreciate Senator Volker helping me understands this bill and I'm going to vote in favor of this bill, but I do think that the broader issue that's left unanswered in this bill is one that we have to pay attention to because the question will arise whether the use of the Internet as the advertising tool creates a sufficient nexus for the New York courts to exercise jurisdiction. That may not be the case under this bill, but it seems to me we have to keep in mind one thing, which is that many of the purchases over the Internet

are the same kind of purchases that you would otherwise go to your local retail store to make, you're buying clothes through the Internet, you're buying personal articles. They may not be of significant cost, but you buy through the Internet, you use the advertising mechanism of the Internet, you dial up or even click the little icon and you order it right over the Internet.

My concern is that if that doesn't establish some nexus with New York State, we're going to find that there is the potential for rampant consumer fraud in these transactions. And the New York resident who pays $50 for a shirt or $50 for a Buffalo Bills jacket or something from out of state that's shipped into this state will find that they have virtually no remedy because their only solution will be to go to the home state or go to a foreign nation in order to enforce their rights, which means that they will be stripped of everything, the jurisdictional protections that would otherwise occur in New York State, and my concern is that you set up a Bermuda corporation, a mail house in

Bermuda, you toss your advertising icon onto the Internet; Michael Dollinger, 19-year-old son of a state Senator, dials it up on his machine, keeps clicking the icon, makes the order, puts his credit card number in, or what's worse, his father's, and ends up in a position where the goods don't arrive or they arrive in a defective way and he has no remedy because his only solution would be to go out and sue the supplier in Bermuda. I think that's an issue that we need to reexplore.

I appreciate Senator Volker saying that this does not affect that, but this does move us down the road to a decision in which we would relinquish the jurisdiction of the New York courts over this transaction, and I'm concerned about the precedent that it may be setting for our consumers in the future.

I'll vote in favor of it with the guarded caution that this is not creating a precedent that we would rely on in the future, it's just to deal with the specific Internet access issue that Senator Volker articulated a minute ago. Thank you.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Let me just quickly say I think that is potentially a problem down the line. This bill doesn't really impact on that and it's one of the issues that we've been talking with the Attorney General about; and there is, I believe, some legislation that is being contemplated dealing with the Internet and that is one of the issues that my counsel was saying, in a sense, it's no different than some of the telephone issues we're trying to deal with now, and they are very serious issues because you're confronted by the issue of interstate commerce and the Constitution and all the rest of the things, but it is something that will have to be looked at, but we don't believe that this bill has any real impact on that.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: If I could

just respond to Senator Volker, I agree in reading the text of this, I think it's narrowly drafted enough so it doesn't affect that. We may or may not be setting a precedent; we may be moving down that road.

I appreciate the fact that the chairman of the Codes Committee recognizes that what we're doing here serves a good purpose. To do something similar that would have broad implications on the recovery of consumers might not be a good thing.

So, as I see this bill, it's tightly enough drafted to serve the purpose that Senator Volker articulated, but I don't want to some day be accused I've already made a commitment to do this and relinquish jurisdiction over these companies in the future.

I note just for the record that we have done a lot of work in the Gaming, Wagering and Racing Committee to deal with the issue of Internet gambling and how we deal with that, what jurisdiction do we exercise, what do we require of those who post gambling services on the Internet. That may also be a

somewhat questionable constitutional exercise of our jurisdiction, but it seems to me we've got to, at some point, broach those issues because this tool, at least from my perspective, 10 or 15 years from now will be the source of an enormous volume goods and services that will be sold right through the Internet.

Thank you, Mr. President.

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 54.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR KUHL: May we return to motions and resolutions? I believe that there is a privileged resolution by Senator Connor

at the desk. I would ask that the title be read in its entirety and that you recognize Senator Connor to speak to the resolution.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Connor, Legislative Resolution 3873, honoring the memory of Robert Francis Kennedy on the 30th Anniversary of his death.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President. This is one of those sad anniversaries that from time to time we commemorate in American history; sad because it marks the tragic death, the assassination, of our United States Senator from the state of New York, the late Robert Francis Kennedy.

But at times like this, 30 years having passed, it also is appropriate to commemorate his life and some of the meaning that that has for us today.

Mr. President, I was a younger man 30 years ago, I was, in fact a law student, avidly watching the 1968 presidential

primaries. Senator Kennedy entered the primaries and then won, I believe, four of the six primaries he was in, and this was an era when you didn't have to necessarily run in all the primaries in either party to run for president. Indeed, most candidates stayed out of the primaries on their way to the nomination, and that was true in both parties, and I don't think it's true in either party any more. But, it was a different era.

Senator Kennedy's tragic death after his greatest primary victory, that of California, shocked the nation. It shocked a nation to see the second brother in public life in the United States cut down at an early age. It certainly saddened the nation to see a father of so many young children, indeed one not yet born, cut down in his prime.

Senator Kennedy had a career of many dimensions for a man who was so young at his death. He had served as counsel, indeed on a famous committee chaired by Senator McCarthy; he resigned from that committee and later went back and worked for the committee when Senator McClellan was in charge of it,

and they investigated abuses in the labor movement. He was the Attorney General of the United States; he was his brother, President Kennedy's, campaign manager, and he was our United States Senator from New York. He was a man whose political philosophy and appeal evolved over the short years he was active in public life.

I commend to anyone that they read some of the bio's about Senator Kennedy and you will see there the development of a philosophy of public service. It avoids the stereotypes that we tend to throw around in politics these days. In some matters, by today's standards, we would say he was Conservative. In other matters, by today's standards, we would stay, "Oh, he was a Liberal." Indeed what I thought was rather interesting was his own attempt to define himself, using both descriptions, Conservative and Liberal.

We tend now by today's controversies to look back at President Kennedy and Senator Kennedy through today's lenses and say, "Oh, they would have, if they

were here today," what they would have done. Who knows what they would have done. We only know what they did do. And we know that Senator Kennedy evolved into a compassionate, caring, public official who cared about bringing Americans together of all races and creeds, who provided hope in that 1968 campaign to many, many people at a time when the nation was deeply divided over issues involving racial conflict, involving the war in Vietnam, conflicts that we, 30 years later, still in some respects in our public life bear the legacy of.

Indeed, I think as New Yorkers we can be proud that Senator Kennedy did serve as the United States Senator from New York, and we all in our private moments can wonder what this country and what this state would have been like had he lived his public life to its natural end, be that a victory or defeat in elections. I think all of us who are in public life certainly aspire to fulfill our careers; and if it must be ended, let it be ended by the voters, not by a madman's bullet.

But that said, Mr. President, I

would ask all my colleagues -- and I note they've all joined in co-sponsoring this resolution commemorating this great man on the positive anniversary of his death. Thank you.

ACTING PRESIDENT BALBONI: Thank you, Senator Connor.

Senator Marchi.

SENATOR MARCHI: Mr. President, I had the pleasure, oh, I guess, in the early '40s I was giving instruction under the release time provision and I had both Bobby Kennedy and his friend, and I don't remember his name now, but he was the son of Ed Flynn, who was the chairman of the Democratic Party in the Bronx, and he was bright, perceptive, with the saving grace of humor, and it was just a delight to have him in the class.

In speaking to people who knew all of the Kennedies, the Kennedy family, and some of my family did, no one would dispute the fact that of all the Kennedies, regardless of how their abilities or their capabilities or intensity and dedication to work, that he easily led them all. He was assiduous in his pursuit, the discharge of his responsibilities

on the highest possible plain.

Some may say he was controversial; and the only way not to be controversial is not to do anything. Certainly I echo the remarks of Senator -- the Minority Leader on this -- on his comments, and I'm very happy to see it observed, as it should be, on what seemed like an incredibly long time, 30 years of his passing.

ACTING PRESIDENT BALBONI: Thank you, Senator Marchi.

On the resolution, all those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The resolution is adopted.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. May we now go to reports of standing committees? I understand there is a report of the Rules Committee at the desk and ask that it be read.

ACTING PRESIDENT BALBONI: The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills direct to third reading:

Senate Print 419B, by Senator Goodman, an act to amend the Vehicle and Traffic Law; 1705, by Senator Marchi, an act to amend the Mental Hygiene Law; 1932, by Senator Padavan, an act to amend the Vehicle and Traffic Law and the Administrative Code of the city of New York;

2058, by Senator Kuhl, an act to amend the Workers' Compensation Law;

2618A, by Senator Lachman, an act to amend the Public Authorities Law;

2971, by Senator DeFrancisco, an act to amend the General Obligations Law;

3259, by Senator Kuhl, an act to amend the Highway Law;

4460, by Senator Rath, an act to amend the Social Services Law;

5137, by Senator Marcellino, an act to amend the Criminal Procedure Law;

6047B, by Senator Johnson, an act to amend the Civil Rights Law;

6380, by Senator Nozzolio, an act to amend the Vehicle and Traffic Law;

6480, by Senator Wright, an act to amend the Tax Law; 6526, by Senator Onorato, an act authorizing the city of New York to reconvey its interests;

6637, by Senator Sampson, an act to authorize the city of New York; 6666, by Senator Marchi, an act to amend the Business Corporation Law, and others;

6773, by Senator Alesi, an act to amend the Tax Law;

6852, by Senator Goodman, an act to amend the Public Officers Law;

6956, by Senator Alesi, an act to amend the Vehicle and Traffic Law and the Insurance Law; 7023, by Senator Maltese, an act to amend the Election Law;

7400, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

7427, by Senator Johnson, an act to repeal section 10-B of the Highway Law;

7444, by Senator Balboni, an act to amend the Penal Law;

7469, by Senator Seward, an act to amend the Insurance Law;

7489A, by Senator Stafford, an

act to amend the State Finance Law;

7508, by Senator Present, an act to amend the Public Authorities Law;

7517, by Senator Johnson, an act to amend the Vehicle and Traffic Law;

7536, by Senator Holland, an act to amend the Vehicle and Traffic Law;

And 7556, by Senator Stafford, an act to amend the Public Officers Law.

All bills ordered direct for third reading.

ACTING PRESIDENT BALBONI: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. I move we accept the report of the Rules Committee.

ACTING PRESIDENT BALBONI: All those in favor of accepting the report of the Rules Committee, significant by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The report is accepted.

SENATOR KUHL: Thank you.

Would you recognize Senator

Montgomery, please?

ACTING PRESIDENT BALBONI: Senator Montgomery.

SENATOR MONTGOMERY: Mr. President, I would like unanimous consent to be reported in the negative on Calendar Numbers 1189 and 1191.

ACTING PRESIDENT BALBONI: Without exception, so ordered.

Senator Kuhl.

SENATOR KUHL: Is there any housekeeping at the desk?

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

SENATOR KUHL: Then I move at this time to adjourn until tomorrow, June 9th, usual time, 3 p.m.

ACTING PRESIDENT MEIER: Thank you, Senator.

On motion of the Senator, the Senate stands adjourned until Tuesday, June 9th at 3 p.m.

(Whereupon, at 4:03 p.m., the Senate adjourned.)