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ALBANY, NEW YORK

June 17, 1998

10:08 A.M.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

## 1 P R O C E E D I N G S

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

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

8 In the absence of clergy, I ask  
9 everyone to bow their heads in a moment of  
10 silence.

11 (A moment of silence was  
12 observed. )

13 Reading of the Journal.

14 THE SECRETARY: In Senate,  
15 Tuesday, June 16th. The Senate met pursuant to  
16 adjournment, Senator Meier in the Chair upon  
17 designation of the Temporary President. The  
18 Journal of Monday, June 15th, was read and  
19 approved. On motion, the Senate adjourned.

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

23 Presentation of petitions.

24 Messages from the Assembly.

25 Messages from the Governor.

1 Reports of standing

2 committees.

3 Reports of select committees.

4 Communications and reports from  
5 state officers.

6 Motions and resolutions.

7 Senator -- the Secretary will  
8 read substitutions.

9 Hold that. Senator Gold.

10 SENATOR GOLD: Yes. Mr.

11 President, I move to amend Senate bill 7452-B  
12 by striking out the amendment that was made on  
13 June 15th and restoring its previous print,  
14 7452-A.

15 ACTING PRESIDENT MEIER: So  
16 ordered.

17 Secretary will read  
18 substitutions.

19 THE SECRETARY: On page 7,  
20 Senator Kuhl moves to discharge from the  
21 Committee on Rules Assembly Bill Number 1638-B  
22 and substitute it for the identical Third  
23 Reading Calendar 213.

24 On page 9, Senator Leibell  
25 moves to discharge from the Committee on Rules

1 Assembly Bill Number 1534-A and substitute it  
2 for the identical Third Reading Calendar 313.

3 On page 10, Senator Alesi moves  
4 to discharge from the Committee on Rules  
5 Assembly Bill Number 8148-B, and substitute it  
6 for the identical Third Reading Calendar 347.

7 On page 16, Senator DeFrancisco  
8 moves to discharge from the Committee on Rules  
9 Assembly Bill Number 5808, and substitute it  
10 for the identical Third Reading Calendar 613.

11 On page 41, Senator Farley  
12 moves to discharge from the Committee on Rules  
13 Assembly Bill Number 7750 and substitute it  
14 for the identical Third Reading Calendar  
15 1384.

16 On page 41, Senator Trunzo  
17 moves to discharge from the Committee on Civil  
18 Service and Pensions Assembly Bill Number  
19 5534-A, and substitute it for the identical  
20 Third Reading Calendar 1385.

21 On page 41, Senator Saland  
22 moves to discharge from the Committee on  
23 Judiciary Assembly Bill Number 105-B and  
24 substitute it for the identical Third Reading  
25 Calendar 1386.

1                   On page 41, Senator Stafford  
2                   moves to discharge from the Committee on Rules  
3                   Assembly Bill Number 6946-A, and substitute it  
4                   for the identical Third Reading Calendar 1389.

5                   On page 42, Senator Nozzolio  
6                   moves to discharge from the Committee on Crime  
7                   Victims, Crime and Corrections Assembly Bill  
8                   Number 10388 and substitute it for the  
9                   identical Third Reading Calendar 1395.

10                   On page 42, Senator Skelos  
11                   moves to discharge from the Committee on Rules  
12                   Assembly Bill Number 10680, and substitute it  
13                   for the identical Third Reading Calendar 1400.

14                   On page 43, Senator Velella  
15                   moves to discharge from the Committee on Rules  
16                   Assembly Bill Number 10716-A and substitute it  
17                   for the identical Third Reading Calendar  
18                   1401.

19                   On page 43, Senator Holland  
20                   moves to discharge from the Committee on Rules  
21                   Assembly Bill Number 10858-A, and substitute  
22                   it for the identical Third Reading Calendar  
23                   1402.

24                   On page 43, Senator Velella  
25                   moves to discharge from the Committee on Rules

1 Assembly Bill Number 10282 and substitute it  
2 for the identical Third Reading Calendar  
3 1403.

4 On page 44, Senator Farley  
5 moves to discharge from the Committee on Rules  
6 Assembly Bill Number 10859 and substitute it  
7 for the identical Third Reading Calendar  
8 1416.

9 On page 44, Senator DeFrancisco  
10 moves to discharge from the Committee on Rules  
11 Assembly Bill Number 9840-A and substitute it  
12 for the identical Third Reading Calendar  
13 1419.

14 On page 45, Senator Bruno moves  
15 to discharge from the Committee on Rules  
16 Assembly Bill Number 11043 and substitute it  
17 for the identical Third Reading Calendar  
18 1422.

19 On page 45, Senator Fuschillo  
20 moves to discharge from the Committee on Rules  
21 Assembly Bill Number 10912 and substitute it  
22 for the identical Third Reading Calendar  
23 1423.

24 And on page 47, Senator Bruno  
25 moves to discharge from the Committee on Rules

1 Assembly Bill Number 11151-A, and substitute  
2 it for the identical Third Reading Calendar  
3 1434.

4 ACTING PRESIDENT MEIER:  
5 Substitutions ordered.

6 Senator Skelos.

7 SENATOR SKELOS: There is a  
8 resolution at the desk sponsored by Senator  
9 Paterson, moved for adoption, on page 16. May  
10 we please have the title read.

11 ACTING PRESIDENT MEIER:  
12 Secretary will read the title.

13 THE SECRETARY: Legislative  
14 Resolution, by Senator Paterson, 4087 mourning  
15 the death of Dr. Jose Francisco Pena Gomez,  
16 one of the most outstanding politicians in the  
17 history of the Dominican Republic.

18 ACTING PRESIDENT MEIER:  
19 Senator Paterson.

20 SENATOR PATERSON: Mr.  
21 President, I'm proud to sponsor this  
22 resolution. My understanding is I do represent  
23 some constituents who come to us from the  
24 Dominican Republic, and he is one of the most  
25 outstanding leaders of the Dominican Republic

1       who passed away, and I wanted to be sure that  
2       we acknowledged his life and accomplishments.

3                   ACTING PRESIDENT MEIER:  
4       Without objection, we'll lay that aside.

5                   Senator Skelos.

6                   SENATOR SKELOS: Mr. President,  
7       could we please take up the non-controversial  
8       calendar.

9                   ACTING PRESIDENT MEIER:  
10       Secretary will read the non-controversial  
11       calendar.

12                   THE SECRETARY: Calendar Number  
13       149, by Senator Velella, Senate Print 5421-A,  
14       an act to amend the Criminal Procedure Law, in  
15       relation to the commission.

16                   ACTING PRESIDENT MEIER: Read  
17       the last section.

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

20                   ACTING PRESIDENT MEIER: Call  
21       the roll.

22                   (The Secretary called the  
23       roll. )

24                   THE SECRETARY: Ayes 37.

25                   ACTING PRESIDENT MEIER: The

1 bill is passed.

2 THE SECRETARY: Calendar Number  
3 331, by Senator Velella, Senate Print 934, an  
4 act to amend the Public Health Law, in  
5 relation to requiring.

6 SENATOR PATERSON: Lay aside.

7 ACTING PRESIDENT MEIER: Lay  
8 the bill aside.

9 THE SECRETARY: Calendar Number  
10 395, by Senator Leibell, Senate Print 4141-A,  
11 an act to amend the General Business Law and  
12 the Real Property Tax Law, in relation to  
13 cooperatives and condominiums.

14 ACTING PRESIDENT MEIER: Read  
15 the last section.

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

18 ACTING PRESIDENT MEIER: Call  
19 the roll.

20 (The Secretary called the  
21 roll.)

22 THE SECRETARY: Ayes 37.

23 ACTING PRESIDENT MEIER: The  
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 420, by Senator Nozzolio, Senate Print 342, an  
2 act to amend the Alcoholic Beverage Control  
3 Law, in relation to the issuance.

4 ACTING PRESIDENT MEIER: Read  
5 the last section.

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

9 ACTING PRESIDENT MEIER: Call  
10 the roll.

11 (The Secretary called the  
12 roll.)

13 THE SECRETARY: Ayes 37.

14 ACTING PRESIDENT MEIER: The  
15 bill is passed.

16 THE SECRETARY: Calendar Number  
17 446, by member of the Assembly Magee, Assembly  
18 Print 1664-C, an act to amend the General City  
19 Law and others, in relation to the  
20 appointment.

21 ACTING PRESIDENT MEIER: Read  
22 the last section.

23 THE SECRETARY: Section 8.  
24 This act shall take effect July 1.

25 ACTING PRESIDENT MEIER: Call

1 the roll.

2 (The Secretary called the  
3 roll. )

4 THE SECRETARY: Ayes 37.

5 ACTING PRESIDENT MEIER: The  
6 bill is passed.

7 THE SECRETARY: Calendar Number  
8 502, by Senator Farley, Senate Print 4246-A,  
9 an act to amend the Banking Law, in relation  
10 to increasing.

11 ACTING PRESIDENT MEIER: Read  
12 the last section.

13 THE SECRETARY: Section 5.  
14 This act shall take effect on the 30th day.

15 ACTING PRESIDENT MEIER: Call  
16 the roll.

17 (The Secretary called the  
18 roll. )

19 THE SECRETARY: Ayes 37.

20 ACTING PRESIDENT MEIER: The  
21 bill is passed.

22 THE SECRETARY: Calendar Number  
23 519, by Senator Velella, Senate Print 4092, an  
24 act to amend the Insurance Law, in relation to  
25 requiring.

1                   ACTING PRESIDENT MEIER: Read  
2           the last section.

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

5                   ACTING PRESIDENT MEIER: Call  
6           the roll.

7                   (The Secretary called the  
8           roll. )

9                   THE SECRETARY: Ayes 37.

10                  ACTING PRESIDENT MEIER: The  
11           bill is passed.

12                  THE SECRETARY: Calendar Number  
13           624, by the Assembly Committee on Rules,  
14           Assembly Print 7923, an act to amend the Real  
15           Property Tax Law, in relation to providing.

16                  ACTING PRESIDENT MEIER: Read  
17           the last section.

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

20                  ACTING PRESIDENT MEIER: Call  
21           the roll.

22                  (The Secretary called the  
23           roll. )

24                  THE SECRETARY: Ayes 37.

25                  ACTING PRESIDENT MEIER: The

1 bill is passed.

2 THE SECRETARY: Calendar Number  
3 697, by Senator LaValle, Senate Print 6690, an  
4 act to amend the Education Law, in relation to  
5 the membership.

6 ACTING PRESIDENT MEIER: Read  
7 the last section.

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

10 ACTING PRESIDENT MEIER: Call  
11 the roll.

12 (The Secretary called the  
13 roll. )

14 THE SECRETARY: Ayes 37.

15 ACTING PRESIDENT MEIER: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 701, by member of the Assembly Klein, Assembly  
19 Print 9763, an act to amend the Estates,  
20 Powers and Trusts Law, in relation to the  
21 disposition.

22 ACTING PRESIDENT MEIER: Read  
23 the last section.

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

1                   ACTING PRESIDENT MEIER: Call  
2                   the roll.

3                   (The Secretary called the  
4                   roll. )

5                   THE SECRETARY: Ayes 37.

6                   ACTING PRESIDENT MEIER: The  
7                   bill is passed.

8                   THE SECRETARY: Calendar Number  
9                   710, by Senator Leibell, Senate Print 6432-A,  
10                  an act to amend the Private Housing Finance  
11                  Law, in relation to the powers.

12                  ACTING PRESIDENT MEIER: Read  
13                  the last section.

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

16                  ACTING PRESIDENT MEIER: Call  
17                  the roll.

18                  (The Secretary called the  
19                  roll. )

20                  THE SECRETARY: Ayes 37.

21                  ACTING PRESIDENT MEIER: The  
22                  bill is passed.

23                  THE SECRETARY: Calendar Number  
24                  730, by Senator Trunzo.

25                  SENATOR SKELOS: Lay it aside

1 for the day.

2 ACTING PRESIDENT MEIER: Lay

3 the bill aside for the day.

4 THE SECRETARY: Calendar Number  
5 744, by Senator Padavan, Senate Print 6727-A,  
6 an act to amend the Real Property Tax Law, in  
7 relation to the tax exemption.

8 ACTING PRESIDENT MEIER: Read  
9 the last section.

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

12 ACTING PRESIDENT MEIER: Call  
13 the roll.

14 (The Secretary called the  
15 roll. )

16 THE SECRETARY: Ayes 37.

17 ACTING PRESIDENT MEIER: The  
18 bill is passed.

19 THE SECRETARY: Calendar Number  
20 752, by member of the Assembly John, Assembly  
21 Print 9994, an act to amend the Judiciary Law,  
22 in relation to the qualifications.

23 ACTING PRESIDENT MEIER: Read  
24 the last section.

25 THE SECRETARY: Section 2.

1 This act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call  
3 the roll.

4 (The Secretary called the  
5 roll. )

6 THE SECRETARY: Ayes 37.

7 ACTING PRESIDENT MEIER: The  
8 bill is passed.

9 THE SECRETARY: Calendar Number  
10 783, by Senator Hannon, Senate Print 7378, an  
11 act to amend the Public Health Law, and the  
12 Education Law, in relation to prohibiting.

13 ACTING PRESIDENT MEIER: Read  
14 the last section.

15 THE SECRETARY: Section 9.

16 This act shall take effect immediately.

17 ACTING PRESIDENT MEIER: Call  
18 the roll.

19 (The Secretary called the  
20 roll. )

21 THE SECRETARY: Ayes 37.

22 ACTING PRESIDENT MEIER: The  
23 bill is passed.

24 THE SECRETARY: Calendar Number  
25 856, by Senator Marcellino, Senate Print 6293,

1 an act to amend the Environmental Conservation  
2 Law, in relation to prohibiting.

3 ACTING PRESIDENT MEIER: Read  
4 the last section.

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

8 ACTING PRESIDENT MEIER: Call  
9 the roll.

10 (The Secretary called the  
11 roll. )

12 THE SECRETARY: Ayes 37.

13 ACTING PRESIDENT MEIER: The  
14 bill is passed.

15 THE SECRETARY: Calendar Number  
16 857, by Senator Marcellino, Senate Print 6294,  
17 an act to amend the Environmental Conservation  
18 Law, in relation to specifying.

19 ACTING PRESIDENT MEIER: Read  
20 the last section.

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

24 ACTING PRESIDENT MEIER: Call  
25 the roll.

1 (The Secretary called the  
2 roll. )

3 THE SECRETARY: Ayes 37.

4 ACTING PRESIDENT MEIER: The  
5 bill is passed.

6 THE SECRETARY: Calendar Number  
7 858, by Senator Marcellino, Senate Print 6295,  
8 an act to amend the Environmental Conservation  
9 Law, in relation to providing.

10 ACTING PRESIDENT MEIER: Read  
11 the last section.

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

15 ACTING PRESIDENT MEIER: Call  
16 the roll.

17 (The Secretary called the  
18 roll. )

19 THE SECRETARY: Ayes 40.

20 ACTING PRESIDENT MEIER: The  
21 bill is passed.

22 THE SECRETARY: Calendar Number  
23 859, by Senator Marcellino, Senate Print 6296.

24 SENATOR PATERSON: Lay aside.

25 ACTING PRESIDENT MEIER: Lay

1 the bill aside.

2 THE SECRETARY: Calendar Number  
3 871, by member of the Assembly Lafayette,  
4 Assembly Print 10419-A, an act to amend the  
5 Banking Law, in relation to participation.

6 ACTING PRESIDENT MEIER: Read  
7 the last section.

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

11 ACTING PRESIDENT MEIER: Call  
12 the roll.

13 (The Secretary called the  
14 roll.)

15 THE SECRETARY: Ayes 40.

16 ACTING PRESIDENT MEIER: The  
17 bill is passed.

18 THE SECRETARY: Calendar Number  
19 956, by Senator Cook, Senate Print 5020-B, an  
20 act to amend the Education Law, in relation to  
21 registration.

22 ACTING PRESIDENT MEIER: Read  
23 the last section.

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

1 January.

2 ACTING PRESIDENT MEIER: Call  
3 the roll.

4 (The Secretary called the  
5 roll. )

6 THE SECRETARY: Ayes 40.

7 ACTING PRESIDENT MEIER: The  
8 bill is passed.

9 THE SECRETARY: Calendar Number  
10 971, by Senator Goodman, Senate Print 1343, an  
11 act to amend the Penal Law, in relation to  
12 reporting of certain incidents.

13 ACTING PRESIDENT MEIER: Read  
14 the last section.

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

17 ACTING PRESIDENT MEIER: Call  
18 the roll.

19 (The Secretary called the  
20 roll. )

21 THE SECRETARY: Ayes 40.

22 ACTING PRESIDENT MEIER: The  
23 bill is passed.

24 THE SECRETARY: Calendar Number  
25 998, by Senator Saland, Senate Print 3442-A,

1 an act to amend the Domestic Relations Law and  
2 the Family Court Act.

3 ACTING PRESIDENT MEIER: Read  
4 the last section.

5 THE SECRETARY: Section 4.  
6 This act shall take effect on the first day of  
7 November.

8 ACTING PRESIDENT MEIER: Call  
9 the roll.

10 (The Secretary called the  
11 roll. )

12 THE SECRETARY: Ayes 40.

13 ACTING PRESIDENT MEIER: The  
14 bill is passed.

15 THE SECRETARY: Calendar Number  
16 1008, by Senator Trunzo, Senate Print 655-A,  
17 an act in relation to creating the Brentwood  
18 Legion Volunteer Ambulance District.

19 ACTING PRESIDENT MEIER: Read  
20 the last section.

21 SENATOR PATERSON: Lay aside.

22 ACTING PRESIDENT MEIER: Lay  
23 the bill aside.

24 THE SECRETARY: Calendar Number  
25 1063, by Senator Alesi, Senate Print 7219, an

1 act to amend the General Business Law, in  
2 relation to altering.

3 ACTING PRESIDENT MEIER: Read  
4 the last section.

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

8 ACTING PRESIDENT MEIER: Call  
9 the roll.

10 (The Secretary called the  
11 roll.)

12 THE SECRETARY: Ayes 40.

13 ACTING PRESIDENT MEIER: The  
14 bill is passed.

15 THE SECRETARY: Calendar Number  
16 1154, by Senator Maziarz, Senate Print 931-A,  
17 an act to amend the Education Law, in relation  
18 to prohibiting.

19 ACTING PRESIDENT MEIER: Read  
20 the last section.

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

24 ACTING PRESIDENT MEIER: Call  
25 the roll.

1 SENATOR LEICHTER: Lay aside.

2 ACTING PRESIDENT MEIER: Lay  
3 aside.

4 THE SECRETARY: 1164, by the  
5 Assembly Committee on Rules, Assembly Print  
6 10766-B, an act to amend the Education Law, in  
7 relation to the sale and distribution.

8 ACTING PRESIDENT MEIER: Read  
9 the last section.

10 THE SECRETARY: Section 2.  
11 This act shall take effect in 180 days.

12 ACTING PRESIDENT MEIER: Call  
13 the roll.

14 (The Secretary called the  
15 roll.)

16 THE SECRETARY: Ayes 40.

17 ACTING PRESIDENT MEIER: The  
18 bill is passed.

19 THE SECRETARY: Calendar Number  
20 1173, by Senator Leibell, Senate Print 6448,  
21 an act to amend the Private Housing Finance  
22 Law, in relation to the powers.

23 ACTING PRESIDENT MEIER: Read  
24 the last section.

25 THE SECRETARY: Section 3.

1 This act shall take effect -

2 SENATOR LEICHTER: Lay that  
3 aside.

4 ACTING PRESIDENT MEIER: Lay  
5 that aside.

6 THE SECRETARY: Calendar Number  
7 1221, by Senator Johnson, Senate Print 7400-A,  
8 an act to amend the Vehicle and Traffic Law,  
9 in relation to vehicle registrations.

10 ACTING PRESIDENT MEIER: Read  
11 the last section.

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

14 ACTING PRESIDENT MEIER: Call  
15 the roll.

16 (The Secretary called the  
17 roll.)

18 THE SECRETARY: Ayes 40.

19 ACTING PRESIDENT MEIER: The  
20 bill is passed.

21 THE SECRETARY: Calendar Number  
22 1259, by Senator Alesi, Senate Print 7380-A,  
23 an act to amend the Highway Law, in relation  
24 to designating.

25 ACTING PRESIDENT MEIER: Read

1 the last section.

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

4 SENATOR PATERSON: Lay it  
5 aside.

6 ACTING PRESIDENT MEIER: Lay  
7 the bill aside.

8 THE SECRETARY: Calendar Number  
9 1374, by Senator Saland, Senate Print 7388-B,  
10 an act to amend the Tax Law and the General  
11 Municipal Law, in relation to tax credits.

12 SENATOR LEICHTER: Lay it  
13 aside.

14 ACTING PRESIDENT MEIER: Lay  
15 the bill aside.

16 THE SECRETARY: Calendar Number  
17 1381, by Senator Skelos, Senate Print 317-C,  
18 an act to amend the Insurance Law, in relation  
19 to policy coverage.

20 ACTING PRESIDENT MEIER: Read  
21 the last section.

22 THE SECRETARY: Section 3.  
23 This act shall take effect -

24 SENATOR LEICHTER: Lay aside.

25 ACTING PRESIDENT MEIER: Lay

1 the bill aside.

2 THE SECRETARY: 1383, by  
3 Senator Maltese, Senate Print 3688-B, an act  
4 to amend the Administrative Code of the city  
5 of New York, in relation to the title.

6 ACTING PRESIDENT MEIER:  
7 There's a home rule message at the desk. Read  
8 the last section.

9 SENATOR LEICHTER: Lay it  
10 aside.

11 ACTING PRESIDENT MEIER: Lay  
12 the bill aside.

13 THE SECRETARY: Calendar Number  
14 1384, substituted earlier today, by the  
15 Assembly Committee on Rules, Assembly Print  
16 7750, an act to amend Section 23 of Chapter  
17 171 of the Laws of 1996.

18 ACTING PRESIDENT MEIER: Read  
19 the last section.

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

22 ACTING PRESIDENT MEIER: Call  
23 the roll.

24 (The Secretary called the  
25 roll.)

1 THE SECRETARY: Ayes 40.

2 ACTING PRESIDENT MEIER: The  
3 bill is passed.

4 THE SECRETARY: Calendar Number  
5 1385, substituted earlier today, by member of  
6 the Assembly Vitaliano, Assembly Print 5534-A,  
7 an act to amend the Education Law, and the  
8 Administrative Code of the city of New York,  
9 in relation to -

10 SENATOR DOLLINGER: Lay aside.

11 ACTING PRESIDENT MEIER: Lay  
12 the bill aside.

13 THE SECRETARY: Calendar Number  
14 1386, substituted earlier today, by member of  
15 the Assembly Hoyt, Assembly Print 105-B, an  
16 act to amend the Family Court Act and the  
17 Domestic Relations Law, in relation to  
18 requirements.

19 ACTING PRESIDENT MEIER: Read  
20 the last section.

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

23 ACTING PRESIDENT MEIER: Call  
24 the roll.

25 (The Secretary called the

1 roll.)

2 THE SECRETARY: Ayes 40.

3 ACTING PRESIDENT MEIER: The  
4 bill is passed.

5 THE SECRETARY: Calendar Number  
6 1387, by Senator Rath, Senate Print 5386, an  
7 act to amend the Penal Law, in relation to  
8 grand larceny.

9 ACTING PRESIDENT MEIER: Read  
10 the last section.

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

14 ACTING PRESIDENT MEIER: Call  
15 the roll.

16 (The Secretary called the  
17 roll.)

18 THE SECRETARY: Ayes 46.

19 ACTING PRESIDENT MEIER: The  
20 bill is passed.

21 THE SECRETARY: Calendar Number  
22 1388, by Senator Maziarz, Senate Print 5435-B,  
23 an act to amend the Family Court Act, in  
24 relation to violations.

25 ACTING PRESIDENT MEIER: Read

1 the last section.

2 THE SECRETARY: Section 4.

3 This act shall take effect in 90 days.

4 ACTING PRESIDENT MEIER: Call  
5 the roll.

6 (The Secretary called the  
7 roll.)

8 THE SECRETARY: Ayes 46.

9 ACTING PRESIDENT MEIER: The  
10 bill is passed.

11 THE SECRETARY: Calendar Number  
12 1389, substituted earlier today.

13 SENATOR PATERSON: Lay aside.

14 ACTING PRESIDENT MEIER: Lay  
15 the bill aside.

16 THE SECRETARY: Calendar Number  
17 1390, by -

18 SENATOR PATERSON: Lay aside.

19 ACTING PRESIDENT MEIER: Lay  
20 the bill aside.

21 THE SECRETARY: Calendar Number  
22 1391, by Senator Skelos.

23 SENATOR PATERSON: Lay aside.

24 ACTING PRESIDENT MEIER: Lay  
25 the bill aside.

1 THE SECRETARY: Calendar Number  
2 1392, by Senator Skelos, Senate Print -

3 SENATOR PATERSON: Lay aside.

4 ACTING PRESIDENT MEIER: Lay it  
5 aside.

6 THE SECRETARY: 1393, by  
7 Senator Rath, an act to amend -

8 SENATOR DOLLINGER: Lay aside.

9 ACTING PRESIDENT MEIER: Lay the  
10 bill aside.

11 THE SECRETARY: Calendar Number  
12 1394, by Senator DeFrancisco, Senate Print  
13 6549-B, an act to amend the Parks, Recreation  
14 and Historic Preservation Law.

15 ACTING PRESIDENT MEIER: Read  
16 the last section.

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

19 ACTING PRESIDENT MEIER: Call  
20 the roll.

21 (The Secretary called the  
22 roll.)

23 THE SECRETARY: Ayes 46.

24 ACTING PRESIDENT MEIER: The  
25 bill is passed.

1 THE SECRETARY: Calendar Number  
2 1395, substituted earlier today, by member of  
3 the Assembly Koon, Assembly Print 10388, an  
4 act to amend the Executive Law, in relation to  
5 eligibility.

6 ACTING PRESIDENT MEIER: Read  
7 the last section.

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

10 ACTING PRESIDENT MEIER: Call  
11 the roll.

12 (The Secretary called the  
13 roll.)

14 THE SECRETARY: Ayes 46.

15 ACTING PRESIDENT MEIER: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 1396, by Senator Skelos, Senate Print 6617-A,  
19 an act to amend the Public Service Law, in  
20 relation to authorization.

21 ACTING PRESIDENT MEIER: Read  
22 the last section.

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

25 ACTING PRESIDENT MEIER: Call

1 the roll.

2 (The Secretary called the  
3 roll.)

4 THE SECRETARY: Ayes 46.

5 ACTING PRESIDENT MEIER: The  
6 bill is passed.

7 THE SECRETARY: Calendar Number  
8 1397, by Senator Lack, Senate Print 6680-A, an  
9 act to amend the Insurance Law, in relation to  
10 a guarantee.

11 ACTING PRESIDENT MEIER: Read  
12 the last section.

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

15 ACTING PRESIDENT MEIER: Call  
16 the roll.

17 (The Secretary called the  
18 roll.)

19 THE SECRETARY: Ayes 46.

20 ACTING PRESIDENT MEIER: The  
21 bill is passed.

22 THE SECRETARY: Calendar Number  
23 1398, by Senator Hoffmann, Senate Print 6699,  
24 an act to authorize James J. Parmley to be  
25 granted.

1                   ACTING PRESIDENT MEIER: Read  
2                   the last section.

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

5                   ACTING PRESIDENT MEIER: Call  
6                   the roll.

7                   (The Secretary called the  
8                   roll. )

9                   THE SECRETARY: Ayes 45, nays  
10                  one, Senator Leichter recorded in the  
11                  negative.

12                  ACTING PRESIDENT MEIER: The  
13                  bill is passed.

14                  THE SECRETARY: Calendar Number  
15                  1399, by Senator Johnson, Senate Print 6737,  
16                  an act to amend the Vehicle and Traffic Law,  
17                  in relation to the suspension.

18                  ACTING PRESIDENT MEIER: Read  
19                  the last section.

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

22                  ACTING PRESIDENT MEIER: Call  
23                  the roll.

24                  (The Secretary called the  
25                  roll.)

1 THE SECRETARY: Ayes 46.

2 ACTING PRESIDENT MEIER: The  
3 bill is passed.

4 THE SECRETARY: Calendar Number  
5 1400, substituted earlier today, by the  
6 Assembly Committee on Rules, Assembly Print  
7 10680, an act to amend Chapter 676 of the Laws  
8 of 1978.

9 ACTING PRESIDENT MEIER: Read  
10 the last section.

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

13 ACTING PRESIDENT MEIER: Call  
14 the roll.

15 (The Secretary called the  
16 roll.)

17 THE SECRETARY: Ayes 46.

18 ACTING PRESIDENT MEIER: The  
19 bill is passed.

20 THE SECRETARY: Calendar Number  
21 1401, substituted earlier today, by the  
22 Assembly Committee on Rules, Assembly Print  
23 10716-A, an act to amend the Insurance Law, in  
24 relation to employer-sponsored group personal  
25 excess insurance.

1                   ACTING PRESIDENT MEIER:  Read  
2           the last section.

3                   THE SECRETARY:  Section 2.  
4           This act shall take effect on the 90th day.

5                   ACTING PRESIDENT MEIER:  Call  
6           the roll.

7                                 (The Secretary called the  
8           roll.)

9                   THE SECRETARY:  Ayes 46.

10                   ACTING PRESIDENT MEIER:  The  
11           bill is passed.

12                   THE SECRETARY:  Calendar Number  
13           1402, substituted earlier today, by the  
14           Assembly Committee on Rules, Assembly Print  
15           10858-A, an act to amend the Social Services  
16           Law, in relation to increasing the standards.

17                   ACTING PRESIDENT MEIER:  Read  
18           the last section.

19                   THE SECRETARY:  Section 4.  
20           This act shall take effect December 31st.

21                   ACTING PRESIDENT MEIER:  Call  
22           the roll.

23                                 (The Secretary called the  
24           roll. )

25                   SENATOR MONTGOMERY:  Lay it

1       aside, please.

2                   ACTING PRESIDENT MEIER:   Lay

3       the bill aside.

4                   THE SECRETARY:   Calendar Number

5       1403, substituted earlier today, by member of

6       the Assembly Lafayette, Assembly Print 10282,

7       an act to amend the General Business Law, in

8       relation to making technical corrections.

9                   ACTING PRESIDENT MEIER:   Lay

10       the bill aside.

11                   Secretary will read.

12                   THE SECRETARY:   Calendar Number

13       1405, by Senator Leibell, Senate Print 7189,

14       an act to amend the New York City Charter, in

15       relation to permitting.

16                   SENATOR LEICHTER:   Lay it

17       aside.

18                   SENATOR PATERSON:   Lay that

19       aside.

20                   ACTING PRESIDENT MEIER:   Lay

21       the bill aside.

22                   THE SECRETARY:   Calendar Number

23       1406, by Senator Seward, Senate Print 7270, an

24       act to amend the Tax Law, in relation to

25       exemptions.

1                   ACTING PRESIDENT MEIER: Read  
2                   the last section.

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

5                   ACTING PRESIDENT MEIER: Call  
6                   the roll.

7                   (The Secretary called the  
8                   roll.)

9                   THE SECRETARY: Ayes 46.

10                  ACTING PRESIDENT MEIER: The  
11                  bill is passed.

12                  THE SECRETARY: Calendar Number  
13                  1407, by Senator Padavan, Senate Print -

14                  SENATOR PATERSON: Lay it  
15                  aside.

16                  ACTING PRESIDENT MEIER: Lay  
17                  the bill aside.

18                  THE SECRETARY: Calendar Number  
19                  1408, by Senator Skelos, Senate Print 7465, an  
20                  act to amend the Business Corporation Law, in  
21                  relation to notice.

22                  ACTING PRESIDENT MEIER: Read  
23                  the last section.

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

1                   ACTING PRESIDENT MEIER: Call  
2                   the roll.

3                   (The Secretary called the  
4                   roll.)

5                   THE SECRETARY: Ayes 46.

6                   ACTING PRESIDENT MEIER: The  
7                   bill is passed.

8                   THE SECRETARY: Calendar Number  
9                   1409, by Senator Trunzo, Senate Print 7474, an  
10                  act to amend the Local Finance Law.

11                  SENATOR LEICHTER: Lay it  
12                  aside.

13                  ACTING PRESIDENT MEIER: Lay  
14                  the bill aside.

15                  THE SECRETARY: Calendar Number  
16                  1410, by Senator Smith, Senate Print 7534, an  
17                  act to amend the Executive Law, in relation to  
18                  authorizing.

19                  ACTING PRESIDENT MEIER: Read  
20                  the last section.

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

23                  ACTING PRESIDENT MEIER: Call  
24                  the roll.

25                  (The Secretary called the

1 roll. )

2 THE SECRETARY: Ayes 46.

3 ACTING PRESIDENT MEIER: The  
4 bill is passed.

5 THE SECRETARY: Calendar Number  
6 1411, by the Senate Committee on Rules, Senate  
7 Print 7548-A, an act to amend the  
8 Administrative Code -

9 SENATOR LEICHTER: Lay it  
10 aside.

11 ACTING PRESIDENT MEIER: Lay  
12 aside.

13 THE SECRETARY: Calendar Number  
14 1412, by Senator Holland, Senate Print 7571,  
15 an act to amend the Education Law, in relation  
16 to extending.

17 ACTING PRESIDENT MEIER: Read  
18 the last section.

19 SENATOR DOLLINGER: Lay aside.

20 ACTING PRESIDENT MEIER: Lay  
21 the bill aside.

22 THE SECRETARY: Calendar Number  
23 1414, by Senator Balboni, Senate Print 7614,  
24 an act to permit the sale or lease of Pond  
25 View Homes.

1                   ACTING PRESIDENT MEIER: Read  
2                   the last section.

3                   SENATOR VELELLA: Lay aside  
4                   temporarily.

5                   ACTING PRESIDENT MEIER: Lay  
6                   aside temporarily.

7                   THE SECRETARY: 1415, by  
8                   Senator Alesi, Senate Print 7633, an act to  
9                   amend the Local Finance Law, in relation to  
10                  establishing.

11                  SENATOR DOLLINGER: Lay aside.

12                  ACTING PRESIDENT MEIER: Lay  
13                  the bill aside.

14                  THE SECRETARY: Calendar Number  
15                  1416, substituted earlier today, by the  
16                  Assembly Committee on Rules, Assembly Print  
17                  10859, an act to amend the Banking Law, in  
18                  relation to extending.

19                  ACTING PRESIDENT MEIER: Read  
20                  the last section.

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

23                  ACTING PRESIDENT MEIER: Call  
24                  the roll.

25                  (The Secretary called the

1 roll.)

2 THE SECRETARY: Ayes 46.

3 ACTING PRESIDENT MEIER: The  
4 bill is passed.

5 THE SECRETARY: Calendar Number  
6 1417, by Senator Farley, Senate Print 7637, an  
7 act to amend the Banking Law, in relation to  
8 providing.

9 ACTING PRESIDENT MEIER: Read  
10 the last section.

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

13 ACTING PRESIDENT MEIER: Call  
14 the roll.

15 (The Secretary called the  
16 roll.)

17 THE SECRETARY: Ayes 46.

18 ACTING PRESIDENT MEIER: The  
19 bill is passed.

20 THE SECRETARY: Calendar Number  
21 1418, by Senator LaValle, Senate Print 7642,  
22 an act to amend Chapter 845 of the Laws of  
23 1992.

24 ACTING PRESIDENT MEIER: Read  
25 the last section.

1 THE SECRETARY: Section 2.

2 This act shall take effect immediately.

3 ACTING PRESIDENT MEIER: Call  
4 the roll.

5 (The Secretary called the  
6 roll.)

7 THE SECRETARY: Ayes 48.

8 ACTING PRESIDENT MEIER: The  
9 bill is passed.

10 THE SECRETARY: Calendar Number  
11 1419, substituted earlier today, by member of  
12 the Assembly Bragman, Assembly Print 9840-A,  
13 an act to authorize the state and local  
14 employees' retirement systems.

15 ACTING PRESIDENT MEIER: Read  
16 the last section.

17 THE SECRETARY: Section 2.

18 This act shall take effect immediately.

19 ACTING PRESIDENT MEIER: Call  
20 the roll.

21 (The Secretary called the  
22 roll. )

23 THE SECRETARY: Ayes 46, nays  
24 2, Senators Dollinger and Leichter recorded in  
25 the negative.

1                   ACTING PRESIDENT MEIER: The  
2 bill is passed.

3                   THE SECRETARY: Calendar Number  
4 1421, by Senator Velella, Senate Print 7653.

5                   SENATOR PATERSON: Lay that  
6 aside.

7                   ACTING PRESIDENT MEIER: Lay  
8 the bill aside.

9                   THE SECRETARY: Calendar Number  
10 1422, substituted earlier today, by the  
11 Assembly Committee on Rules, Assembly Print  
12 11043, an act to amend the Insurance Law, in  
13 relation to extending.

14                   ACTING PRESIDENT MEIER: Read  
15 the last section.

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

18                   ACTING PRESIDENT MEIER: Call  
19 the roll.

20                   (The Secretary called the  
21 roll. )

22                   THE SECRETARY: Ayes 48.

23                   ACTING PRESIDENT MEIER: The  
24 bill is passed.

25                   THE SECRETARY: Calendar Number

1 1423, by the -- substituted earlier today, by  
2 the Assembly Committee on Rules, Assembly  
3 Print 10912, an act to amend the Highway Law,  
4 in relation to regulations.

5 ACTING PRESIDENT MEIER: Read  
6 the last section.

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

9 ACTING PRESIDENT MEIER: Call  
10 the roll.

11 (The Secretary called the  
12 roll. )

13 THE SECRETARY: Ayes 50.

14 ACTING PRESIDENT MEIER: The  
15 bill is passed.

16 THE SECRETARY: Calendar Number  
17 1425, by Senator Alesi, Senate Print 7672, an  
18 act to amend the Personal Property Law, in  
19 relation to the Motor Vehicle Retail Leasing  
20 Act.

21 ACTING PRESIDENT MEIER: Read  
22 the last section.

23 SENATOR PATERSON: Lay aside.

24 ACTING PRESIDENT MEIER: Lay  
25 the bill aside.

1 THE SECRETARY: Calendar Number  
2 1426, by Senator Skelos, Senate Print 7678, an  
3 act to authorize the South Hempstead Fire  
4 District.

5 ACTING PRESIDENT MEIER: Read  
6 the last section.

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

9 ACTING PRESIDENT MEIER: Call  
10 the roll.

11 (The Secretary called the  
12 roll. )

13 THE SECRETARY: Ayes 50.

14 ACTING PRESIDENT MEIER: The  
15 bill is passed.

16 THE SECRETARY: Calendar Number  
17 1427, by Senator Goodman, Senate Print 7687.

18 SENATOR LEICHTER: Lay the bill  
19 aside.

20 ACTING PRESIDENT MEIER: Lay  
21 the bill aside.

22 THE SECRETARY: Calendar Number  
23 1428, by Senator Stafford, Senate Print 7690,  
24 an act to amend the Real Property Tax Law, in  
25 relation to state reimbursement.

1                   ACTING PRESIDENT MEIER:  
2           There's a local fiscal impact note at the  
3           desk. Read the last section.

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

6                   ACTING PRESIDENT MEIER: Call  
7           the roll.

8                   (The Secretary called the  
9           roll.)

10                  THE SECRETARY: Ayes 50.

11                  ACTING PRESIDENT MEIER: The  
12           bill is passed.

13                  THE SECRETARY: Calendar Number  
14           1429, by Senator Rath, Senate Print 7694, an  
15           act to amend the County Law and others, in  
16           relation to the dollar amounts.

17                  ACTING PRESIDENT MEIER: Read  
18           the last section.

19                  THE SECRETARY: Section 26.  
20           This act shall take effect immediately.

21                  ACTING PRESIDENT MEIER: Call  
22           the roll.

23                  (The Secretary called the  
24           roll.)

25                  THE SECRETARY: Ayes 50.

1                   ACTING PRESIDENT MEIER: The  
2 bill is passed.

3                   THE SECRETARY: Calendar Number  
4 1430, by Senator Rath, Senate Print 7696, an  
5 act to amend the County Law, in relation to  
6 the filing.

7                   ACTING PRESIDENT MEIER:  
8 There's a local fiscal impact note at the  
9 desk. Read the last section.

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

12                  ACTING PRESIDENT MEIER: Call  
13 the roll.

14                                 (The Secretary called the  
15 roll.)

16                  THE SECRETARY: Ayes 50.

17                  ACTING PRESIDENT MEIER: The  
18 bill is passed.

19                  THE SECRETARY: Calendar Number  
20 1432, by Senator Libous, Senate Print -

21                  SENATOR PATERSON: Lay aside.

22                  ACTING PRESIDENT MEIER: Lay  
23 the bill aside.

24                  THE SECRETARY: 1433, by  
25 Senator Farley, Senate Print 7719, an act to

1 amend the Banking Law, in relation to the  
2 annual meeting.

3 ACTING PRESIDENT MEIER: Read  
4 the last section.

5 THE SECRETARY: Section 2.  
6 This act shall take effect May 1, 1999.

7 ACTING PRESIDENT MEIER: Call  
8 the roll.

9 (The Secretary called the  
10 roll.)

11 THE SECRETARY: Ayes 50.

12 ACTING PRESIDENT MEIER: The  
13 bill is passed.

14 THE SECRETARY: Calendar Number  
15 1434, substituted earlier today, by the  
16 Assembly Committee on Rules, Assembly Print  
17 11151-A.

18 SENATOR DOLLINGER: Lay aside.

19 ACTING PRESIDENT MEIER: Lay  
20 the bill aside.

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

24 SENATOR SKELOS: Mr. President,  
25 there will be an immediate meeting of the

1 Committee on Finance in the Majority -- in the  
2 Majority Conference Room.

3 ACTING PRESIDENT MEIER:  
4 Immediate meeting of the Committee on Finance  
5 in the Majority Conference Room.

6 Senator Padavan.

7 SENATOR PADAVAN: Yes, Mr.  
8 President.

9 May I be recorded in the  
10 negative on Calendar Number 420.

11 ACTING PRESIDENT MEIER:  
12 Without objection, Senator Padavan will be  
13 recorded in the negative on Calendar Number  
14 420.

15 Senator Volker.

16 SENATOR VOLKER: Mr. President,  
17 on page 8, Calendar Number 285, Senate Print  
18 751, want this bill recommitted and strike the  
19 enacting clause.

20 ACTING PRESIDENT MEIER: So  
21 ordered.

22 Senator LaValle.

23 SENATOR LAVALLE: Mr.  
24 President, might I have unanimous consent to  
25 be recorded in the negative on Calendar Number

1 420.

2 ACTING PRESIDENT MEIER:

3 Without objection, Senator LaValle will be  
4 recorded in the negative on Calendar Number  
5 420.

6 Senator Dollinger.

7 SENATOR DOLLINGER: Mr.

8 President, may I have unanimous consent to  
9 also be recorded in the negative on Calendar  
10 Number 420.

11 ACTING PRESIDENT MEIER:

12 Without objection, Senator Dollinger will be  
13 recorded in the negative on Calendar Number  
14 420.

15 Senator Skelos.

16 SENATOR SKELOS: Mr. President,  
17 would you start the controversial calendar.

18 ACTING PRESIDENT MEIER:

19 Secretary will read the controversial  
20 calendar.

21 THE SECRETARY: Calendar Number  
22 331, by Senator Velella, Senate Print 934.

23 SENATOR SKELOS: Lay it aside  
24 for the day.

25 ACTING PRESIDENT MEIER: Lay

1 the bill aside for the day.

2 THE SECRETARY: Calendar Number  
3 859, by Senator Marcellino, Senate Print 6296,  
4 an act to amend the Environmental Conservation  
5 Law, in relation to allowing.

6 ACTING PRESIDENT MEIER: Read  
7 the last section.

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

11 ACTING PRESIDENT MEIER: Call  
12 the roll.

13 (The Secretary called the  
14 roll. )

15 THE SECRETARY: Ayes 50.

16 ACTING PRESIDENT MEIER: The  
17 bill is passed.

18 THE SECRETARY: Calendar Number  
19 1008, by Senator Trunzo, Senate Print 655-A,  
20 an act in relation to creating the Brentwood  
21 Legion Volunteer Ambulance District.

22 ACTING PRESIDENT MEIER: Read  
23 the last section.

24 SENATOR PATERSON: Wait.  
25 Explanation.

1                   ACTING PRESIDENT MEIER:  
2           Senator Trunzo, an explanation has been  
3           requested of Calendar 1008 by Senator  
4           Paterson.

5                   SENATOR TRUNZO: Mr. President,  
6           this particular piece of legislation permits  
7           the Brentwood Legion Ambulance, one of the  
8           busiest volunteer ambulances in Suffolk  
9           County, to form their own ambulance district.  
10          Currently, they have their own water  
11          commissioners, et cetera, similar to a fire  
12          department, and basically that's what this  
13          will do for an ambulance district as we have  
14          dealt with in Suffolk County in the town of  
15          Islip.

16                   ACTING PRESIDENT MEIER: Read  
17          the last section.

18                   THE SECRETARY: Section 7.  
19          This act shall take effect upon approval.

20                   ACTING PRESIDENT MEIER: Call  
21          the roll.

22                   (The Secretary called the  
23          roll. )

24                   THE SECRETARY: Ayes 50.

25                   ACTING PRESIDENT MEIER: The

1 bill is passed.

2 THE SECRETARY: Calendar Number  
3 1154, by Senator Maziarz, Senate Print 931-A,  
4 an act to amend the Education Law, in relation  
5 to prohibiting.

6 SENATOR PATERSON: Explanation.

7 SENATOR MAZIARZ: Thank you,  
8 Mr. President.

9 ACTING PRESIDENT MEIER: Just  
10 one moment. Senator Maltese, why do you rise?

11 SENATOR MALTESE: Mr.  
12 President, I ask unanimous consent to be  
13 recorded in the negative on Calendar Number  
14 420. I was at a Higher Education meeting.

15 ACTING PRESIDENT MEIER:  
16 Without objection, Senator Maltese will be  
17 recorded in the negative on Calendar 420.

18 Senator Maziarz, an explanation  
19 has been requested of Calendar 154 -- 1154.

20 SENATOR MAZIARZ: Thank you  
21 very much, Mr. President.

22 Very simply, Mr. President,  
23 this legislation would prohibit the  
24 merchandising of credit cards on SUNY and CUNY  
25 campuses, Mr. President. What this bill would

1 not do is prohibit students from accessing  
2 credit cards, but this would prohibit banks  
3 and credit card companies from coming onto a  
4 SUNY campus, setting up a table, if you will,  
5 putting out what's very popular today are  
6 water bottles, popular CDs, enticing students  
7 to sign up for credit cards immediately, and  
8 getting a free CD or a free water bottle or  
9 T-shirt or something of that nature.

10 Also encourages students by  
11 telling them, don't worry, use a credit card;  
12 it will only be a \$500 line of credit and you  
13 can simply throw it away when you get it and,  
14 of course, that does not happen. Students are  
15 finding themselves behind the financial '8'  
16 ball after they graduate and this bill would  
17 prohibit that type of merchandising.

18 I may add, Mr. President, that  
19 most of the private colleges and universities  
20 in the state do prohibit this type of  
21 merchandising of credit cards.

22 Thank you.

23 ACTING PRESIDENT MEIER:

24 Senator Paterson.

25 SENATOR PATERSON: Mr.

1 President, if the sponsor would yield.

2 ACTING PRESIDENT MEIER:

3 Senator Maziarz, do you yield for a question?

4 SENATOR MAZIARZ: Certainly,

5 Mr. President.

6 ACTING PRESIDENT MEIER:

7 Senator yields.

8 SENATOR PATERSON: At first  
9 blush and probably at the last one, I think  
10 this is a very good bill. I think back to the  
11 misunderstanding that exists not only on the  
12 part of younger people but just on the part of  
13 society regarding credit, and I was reading  
14 recently that just in the past five years,  
15 there is a trend toward consumer  
16 responsibility, that consumers are not getting  
17 as far behind on their credit cards and in  
18 debt, and this would certainly be an apt  
19 warning that we would give to younger people  
20 who, in many respects, have financial aid  
21 responsibilities in college and when they get  
22 out into the work force, many times they have  
23 hindered themselves by being induced not  
24 fraudulently but certainly with a lot of  
25 frills and a lot of incentives, as Senator

1 Maziarz pointed out.

2 My question, Senator Maziarz,  
3 is why are we distinguishing just the credit  
4 industry? In other words, driver's licenses,  
5 even buying CDs can -- can create the same  
6 kind of problem. From a policy perspective  
7 even though this is a -- can have a very  
8 positive effect as a piece of legislation,  
9 from a policy perspective is this just a  
10 little bit of "big brother" to some degree  
11 directing the choice of individuals as op  
12 posed to perhaps trying to persuade?

13 SENATOR MAZIARZ: Mr.  
14 President, through you: Senator Paterson,  
15 perhaps it is, but I don't think that the two  
16 examples you used, just merchandising CDs,  
17 there's no long-term financial effect to that  
18 or, quite frankly, driver's licenses on SUNY  
19 campuses would probably be a positive move,  
20 but -- but the merchandising of credit cards  
21 puts a student behind the financial '8' ball  
22 for the long term, if you will, and what  
23 happens all too often since I introduced this  
24 bill when it passed last year, I believe  
25 unanimously, Senator, I heard from a great

1 deal of parents who -- whose students had  
2 applied for credit cards, had put down under  
3 their "employment" sections on the application  
4 "not employed" and yet got the credit card  
5 with a very small line of credit, \$500.  
6 Within six months, those lines of credit were  
7 increased to 1500, one student 18 months  
8 \$10,000. That student worked part time at a  
9 pizzeria for \$6 an hour at the time.

10 SENATOR PATERSON: If the  
11 Senator will yield for one further question.

12 ACTING PRESIDENT MEIER:  
13 Senator, do you continue to yield?

14 SENATOR MAZIARZ: For one  
15 further question.

16 ACTING PRESIDENT MEIER:  
17 Senator yields for one further question.

18 SENATOR PATERSON: Senator, do  
19 you think this is a good bill?

20 SENATOR MAZIARZ: I think this  
21 is a really good bill.

22 SENATOR PATERSON: Mr.  
23 President, I would suggest, I better not come  
24 down on this one; I better not see one no vote  
25 on this bill.

1 THE SECRETARY: Section 3.  
2 This act shall take effect the the first day  
3 of July.

4 ACTING PRESIDENT MEIER: Call  
5 the roll.

6 (The Secretary called the  
7 roll.)

8 THE SECRETARY: Ayes 50.

9 ACTING PRESIDENT MEIER: The  
10 bill is passed.

11 THE SECRETARY: Calendar Number  
12 1173, by Senator Leibell, Senate Print 6448,  
13 an act to amend the Private Housing Finance  
14 Law, in relation to the powers.

15 SENATOR LEICHTER:  
16 Explanation.

17 SENATOR PATERSON:  
18 Explanation.

19 ACTING PRESIDENT MEIER:  
20 Senator Leibell, an explanation has been  
21 requested of Calendar 1173 by Senator  
22 Leichter.

23 SENATOR LEIBELL: This bill  
24 would authorize the New York State Housing  
25 Finance Agency to establish subsidiaries and

1 to acquire full title to real properties which  
2 have received some form of assistance from the  
3 U.S. government in connection with  
4 foreclosures or other situations arising  
5 pursuant to the operation of HFA programs.

6 At present, HFA is not required  
7 to create these subsidiaries. Currently if  
8 HFA seeks to acquire distressed properties  
9 that receive some form of assistance from the  
10 federal government, such as SONYMA, such  
11 possession would place them in jeopardy of  
12 losing federal subsidies on the property.  
13 This bill would permit HFA to access such  
14 federal monies, thereby benefiting the  
15 mortgagor serviced by HFA in their programs.  
16 This is an HFA program bill.

17 SENATOR LEICHTER: Mr.  
18 President.

19 ACTING PRESIDENT MEIER:  
20 Senator Leichter.

21 SENATOR LEICHTER: If Senator  
22 Leibell would yield.

23 ACTING PRESIDENT MEIER:  
24 Senator Leibell, do you yield for a question?

25 SENATOR LEIBELL: Yes.

1 ACTING PRESIDENT MEIER:

2 Sponsor yields.

3 SENATOR LEICHTER: I couldn't  
4 understand as I read this bill where it needed  
5 to create subsidiaries to take over these  
6 properties. Why can't it do it in its present  
7 form?

8 SENATOR LEIBELL: Their counsel  
9 has advised on this bill that's before the  
10 house today, that they do not have that  
11 authority, that in their opinion they do need  
12 the creation of these subsidiaries; that is,  
13 that was the opinion of their counsel.

14 SENATOR LEICHTER: Well, why?

15 SENATOR LEIBELL: Under federal  
16 law, it's required.

17 SENATOR LEICHTER: If you would  
18 be so good as to yield.

19 ACTING PRESIDENT MEIER:  
20 Senator Leibell, do you continue to yield?

21 SENATOR LEIBELL: Yes.

22 ACTING PRESIDENT MEIER:  
23 Senator continues to yield.

24 SENATOR LEICHTER: I'm not sure  
25 there's anything wrong with creating

1 subsidiaries. There may be some issue of  
2 costs, and so on, but why don't we, if it's a  
3 matter of giving the HFA authority to take  
4 over property, why don't we just give them  
5 that authority? Why do we also say they can  
6 create subsidiaries to do that?

7 SENATOR LEIBELL: Because if we  
8 don't do it through a subsidiary, they would  
9 lose their federal subsidy. This is required  
10 by federal law.

11 SENATOR LEICHTER: In other  
12 words, what you're saying is that, if they  
13 take over property in their corporate form,  
14 the parent, that that would lose -- that they  
15 would lose their federal subsidies.

16 SENATOR LEIBELL: From that  
17 property.

18 SENATOR LEICHTER: But, if they  
19 have a subsidiary, they will not.

20 SENATOR LEIBELL: Correct.

21 SENATOR LEICHTER: And the  
22 reason they're going to take over property in  
23 some instances is because of foreclosure or  
24 some -

25 SENATOR LEIBELL: Some form of

1 default.

2 SENATOR LEICHTER: Are we  
3 giving these subsidiaries any powers to take  
4 over property in condemnation?

5 SENATOR LEIBELL: Nothing -  
6 there would be no powers that HFA does not  
7 already have.

8 SENATOR LEICHTER: And am I  
9 correct that they don't have the power of  
10 condemnation?

11 SENATOR LEIBELL: I believe  
12 they do have that power presently.

13 SENATOR LEICHTER: I mean I owe  
14 -- I don't think they have it either, but I'm  
15 not sure, and I think it would be fairly risky  
16 and I'm sure this house would not want to give  
17 them the power of condemnation. We ought to  
18 really be sure of that.

19 SENATOR LEIBELL: This bill  
20 does not do that. All this bill does is  
21 authorize them to form these subsidiaries. It  
22 doesn't give them any other additional powers  
23 which they otherwise would not -- would have.

24 SENATOR LEICHTER: O.K. Thank  
25 you.

1                   ACTING PRESIDENT MEIER: Read  
2                   the last section.  
3                   THE SECRETARY: Section 3.  
4                   This act shall take effect immediately.  
5                   ACTING PRESIDENT MEIER: Call  
6                   the roll.  
7                   (The Secretary called the  
8                   roll. )  
9                   THE SECRETARY: Ayes 50.  
10                  ACTING PRESIDENT MEIER: The  
11                  bill is passed.  
12                  SENATOR PATERSON:  
13                  Explanation.  
14                  THE SECRETARY: Calendar Number  
15                  1259, by Senator Alesi.  
16                  ACTING PRESIDENT MEIER: Not  
17                  yet, Senator Paterson.  
18                  THE SECRETARY: Senate Print  
19                  7380-A, an act to amend the Highway Law.  
20                  ACTING PRESIDENT MEIER: Now.  
21                  SENATOR PATERSON: Explanation.  
22                  ACTING PRESIDENT MEIER:  
23                  Senator Alesi.  
24                  Senator Alesi, an explanation  
25                  has been requested of Calendar 1259 by Senator

1 Paterson.

2 SENATOR ALESI: That would be  
3 my pleasure, Mr. President.

4 This bill allows, for  
5 ceremonial purposes only, Senator, the naming  
6 of a portion of the Macedon Road Highway in  
7 front of the American Legion Post as the  
8 POW/MIA Memorial Highway.

9 ACTING PRESIDENT MEIER:  
10 Senator Paterson.

11 SENATOR PATERSON: Oh, so this  
12 was a purely local impact?

13 SENATOR ALESI: Local.

14 SENATOR PATERSON: All right,  
15 Mr. President. Thank you.

16 After arduous consideration  
17 I've decided to go along with Senator Alesi on  
18 that one, and if anyone votes against it I  
19 will see them outside.

20 SENATOR ALESI: Thank you,  
21 Senator, and if I may add, Mr. President, I  
22 admire the Senator's wisdom on this matter.

23 ACTING PRESIDENT MEIER: Read  
24 the last section.

25 THE SECRETARY: Section 3.

1 This act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call  
3 the roll.

4 (The Secretary called the  
5 roll. )

6 THE SECRETARY: Ayes 50.

7 ACTING PRESIDENT MEIER: The  
8 bill is passed.

9 THE SECRETARY: Calendar Number  
10 1374, by Senator Saland, Senate Print 7388-B,  
11 an act to amend the Tax Law and the General  
12 Municipal Law, in relation to tax credits.

13 SENATOR PATERSON: Mr.  
14 President.

15 ACTING PRESIDENT MEIER:  
16 Senator Paterson.

17 SENATOR PATERSON: Mr.  
18 President, this is an "LL" bill. This is a  
19 Leichter lay aside, and he is out of the  
20 chamber. If we might hold this bill until  
21 he -

22 SENATOR SKELOS: Lay aside  
23 temporarily.

24 ACTING PRESIDENT MEIER: Lay  
25 aside temporarily.

1 THE SECRETARY: 1381, by  
2 Senator Skelos, an act to amend the Insurance  
3 Law, in relation to policy coverage.

4 ACTING PRESIDENT MEIER: Read  
5 the last section.

6 THE SECRETARY: Section 3.  
7 This act shall take effect on the 180th day.

8 ACTING PRESIDENT MEIER:  
9 Senator Paterson.

10 SENATOR PATERSON: I believe  
11 Senator Leichter laid this bill aside as well.

12 SENATOR SKELOS: Lay aside  
13 temporarily.

14 ACTING PRESIDENT MEIER: Lay  
15 aside temporarily. The Chair might suggest  
16 that somebody might want -- someone might want  
17 to find Senator Leichter, since many of these  
18 are his lay asides.

19 The Secretary will continue to  
20 read.

21 SENATOR PATERSON: Mr.  
22 President.

23 ACTING PRESIDENT MEIER: Senator  
24 Paterson.

25 SENATOR PATERSON: Senator

1           Leichter is in the Finance Committee.

2                         ACTING PRESIDENT MEIER: All  
3 right, very well. Point well taken. I  
4 apologize to Senator Leichter.

5                         SENATOR PATERSON: Working very  
6 hard, Mr. President, but even Senator Leichter  
7 can't be in two places at once, and we're all  
8 so happy that he can't be.

9                         ACTING PRESIDENT MEIER: Oh, I  
10 think Senator Leichter is in two places at  
11 once sometimes.

12                         The Secretary will continue to  
13 read.

14                         THE SECRETARY: Calendar Number  
15 1383, by Senator Maltese, Senate Print 3688-B,  
16 an act to amend the Administrative Code of the  
17 city of New York.

18                         SENATOR PATERSON: Explanation.

19                         ACTING PRESIDENT MEIER:  
20 Senator Maltese, an explanation has been  
21 requested of Calendar Number 1383, by Senator  
22 Paterson.

23                         SENATOR MALTESE: This bill is  
24 an act to amend the Administrative Code, in  
25 relation to police sergeants assigned as

1 supervisors of detective squads. It is an  
2 eminently fair bill in that it provides that  
3 police sergeants assigned as supervisors in  
4 the detective bureau be granted that title  
5 after 18 months in the assignment, a full year  
6 and a half.

7 The justification is that a  
8 police sergeant assigned to an investigatory  
9 position accepts the added responsibilities of  
10 giving direction to the highest level of  
11 investigations in the most sensitive areas of  
12 law enforcement. These include narcotics,  
13 organized crime, intelligence, homicide which  
14 I have some familiarity with, bombings, under  
15 cover assignments and all other detective  
16 investigations.

17 The salaries of detective  
18 second grade and detective first great are now  
19 equal to or greater than that of the  
20 sergeants. Nevertheless, the sergeants  
21 working in this capacity are charged with  
22 responsibility, accountability and decision  
23 making for their subordinates who are making  
24 more money than they are.

25 Under current law, if a police

1 officer is assigned to detective duties for a  
2 period of 18 months or greater, he must  
3 receive the compensation and title of a  
4 detective, undoubtedly one of our bills. This  
5 bill would give the same right to a sergeant  
6 who has performed the duties of a detective  
7 supervisor for the same 18-month period.

8 The -- the cost, fiscal  
9 implications to state and local government -  
10 our cost estimates are minimal: In '98-99  
11 300,000; '99-2000, 425,000; 2000 to 2001,  
12 475,000; 2001 to 2002, 925,000.

13 I'm mindful of the memorandum  
14 in opposition by Mr. Harding, the legislative  
15 representative for the City. Their figures  
16 are almost, in most cases, double or triple  
17 our fiscal figures. We indicate that our  
18 fiscal note was prepared by Jonathan Schwartz,  
19 consulting actuary, whereas the mayor's memo  
20 does not indicate who prepared the memo, and,  
21 therefore, can be attributed to no individual  
22 as to accuracy.

23 It does seem that sergeants who  
24 are accepting these additional duties and are  
25 taking these duties on -- with all the

1       responsibilities inherent in them, should,  
2       after 18 months, receive the -- the extra  
3       pay.

4                   ACTING PRESIDENT MEIER:  
5       Senator Paterson.

6                   SENATOR PATERSON:   Mr.  
7       President, I'm sorry.  I was -- just wanted to  
8       ask Senator Maltese if -- and he may have  
9       actually answered it, the City does have a  
10      position on this bill?

11                  SENATOR MALTESE:   Yes, the City  
12      has issued a memorandum in opposition which I  
13      have here.

14                  SENATOR PATERSON:   O.K.  The  
15      City, I would assume, feels that this is  
16      somewhat of an unfunded mandate; would that be  
17      an apt -

18                  SENATOR MALTESE:   They, they  
19      feel our -- I'll read you a portion of their  
20      memo.

21                         "The City is strongly opposed,  
22      as it represents an unreasonable encroachment  
23      on the traditional managerial authority of the  
24      Police Commissioner.  Current law provides for  
25      discretion in designating a supervisor."

1                   Since I'm reading it, I will  
2                   also say at that point that it is done in  
3                   other categories.

4                   "This appointment is intended  
5                   to reflect extraordinary performance on the  
6                   part of the supervisor, detective squad or  
7                   those who have supervised units with heavy  
8                   complex and demanding case loads."

9                   My point, in response to that,  
10                  is if they're prepared to put this person in  
11                  that category for a full year and a half, they  
12                  should be prepared to reimburse them for those  
13                  additional responsibilities.

14                  They also say that,  
15                  "Furthermore, the other sergeants," they're  
16                  saying that the other sergeants with the  
17                  police department, not in investigatory  
18                  pursuits do not get that. I'll be glad to put  
19                  in a bill to do that on the next session and  
20                  try to remedy that inequity.

21                  SENATOR PATERSON: O.K. Thank  
22                  you, Senator.

23                  ACTING PRESIDENT MEIER:  
24                  Senator Paterson? Senator Leichter.

25                  SENATOR LEICHTER: Yes, Mr.

1 President, if Senator Maltese would yield.

2 ACTING PRESIDENT MEIER:

3 Senator yields.

4 SENATOR LEICHTER: Senator,  
5 yesterday I believe you voted for Senator  
6 Rath's Constitutional Amendment against  
7 unfunded mandates in the amount of \$20,000 or  
8 more, did you not?

9 SENATOR MALTESE: Yes, I did,  
10 Mr. President.

11 SENATOR LEICHTER: And now you  
12 come before us with a bill that imposes a  
13 clear mandate on the city of New York. I'm -  
14 I'm shocked at this contradiction.

15 SENATOR MALTESE: Well, Mr.  
16 President, they say sometimes consistency is  
17 the indication of small -- people with small  
18 minds. I wouldn't be accused of either  
19 consistency or having a small mind.

20 SENATOR LEICHTER: Well,  
21 Senator, I would agree with you on both  
22 counts, but if -- in all seriousness, it's not  
23 only the matter of the unfunded mandates, and  
24 I think we made the point yesterday that there  
25 are going to be times and occasions when this

1       Legislature is going to want to impose  
2       unfunded mandates because we're legislating  
3       for all the people of the state of New York,  
4       but that's not the case here.

5                 This is the sort of unfunded  
6       mandate that, frankly, I would certainly  
7       support having some prohibition on because  
8       here we're interfering with the city of New  
9       York in the administration of its police  
10       department.

11                Now, I may agree with Senator  
12       Maltese that maybe this is something that the  
13       city of New York ought to do, but that's for  
14       the city of New York to decide. I mean it's  
15       just wrong for this Legislature to interfere  
16       with the administration of the police  
17       department, to tell the city of New York how  
18       it has to spend money if -- to impose its  
19       judgment upon that of the police  
20       commissioner.

21                These are really the sort of  
22       things that we just should not do. It's not  
23       only a matter of unfunded mandate. It's a  
24       matter of it's a gross violation of home rule  
25       and over the years that I've been here,

1           there's always been this tendency by some of  
2           my colleagues who want to tell the city police  
3           department how it ought to be managed, and  
4           I've said to them, I remember saying it to  
5           Senator Schermerhorn, Why don't you apply to  
6           be police commissioner in New York City? He  
7           might have made an excellent police  
8           commissioner.

9                           But it's not our duty as  
10           legislators to tell New York City how it's  
11           going to manage its police department. It's  
12           not the sort of bill that we should do,  
13           Senator Maltese.

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

17                           THE SECRETARY: Section 3.  
18           This act shall take effect on the 180th day.

19                           ACTING PRESIDENT MEIER: Call  
20           the roll.

21                                   (The Secretary called the  
22           roll. )

23                           THE SECRETARY: Ayes 53, nays  
24           one, Senator Leichter recorded in the  
25           negative.

1                   ACTING PRESIDENT MEIER:  The  
2           bill is passed.

3                   SENATOR SKELOS:  Mr.  
4           President.

5                   ACTING PRESIDENT MEIER:  
6           Senator Skelos.

7                   SENATOR SKELOS:  Yes, Mr.  
8           President.  Senator Leichter has returned from  
9           the Finance Committee, so would you take up  
10          Calendar Number 1374, by Senator Saland.

11                   ACTING PRESIDENT MEIER:  
12          Secretary will read Calendar Number 1374.

13                   THE SECRETARY:  Calendar Number  
14          1374, by Senator Saland, Senate Print 7388-B,  
15          an act to amend the Tax Law and the General  
16          Municipal Law.

17                   SENATOR LEICHTER:  Explanation.

18                   ACTING PRESIDENT MEIER:  
19          Senator Saland, an explanation has been  
20          requested by Senator Leichter of Calendar  
21          1374.

22                   SENATOR SALAND:  Mr. President,  
23          as we're well aware, there are a number of  
24          economic development zones, so-called EDZs,  
25          throughout New York State.  I believe they

1 currently number some 40. In response to -  
2 to some suggestions made by a group of the  
3 zone coordinators of these EDZs, this proposed  
4 legislation attempts to provide greater  
5 flexibility to the -- to those respective  
6 economic development zones.

7 For instance, one of the first  
8 proposals contained therein would say that the  
9 \$100,000 cap on investments or contributions  
10 by a taxpayer which can be made to any of the  
11 three categories of zone capital credit -  
12 credit program would have that \$100,000  
13 limitation removed, keeping, however, the  
14 total \$300,000 cap for the combination of  
15 those three entities within the program at the  
16 same level, the current \$300,000 level.

17 Again, what's being sought here  
18 is flexibility, the ability for people at the  
19 local level who are trying to enhance economic  
20 development within these respective zones, to  
21 in effect have a greater say in how these  
22 credits shall be taken or allocated, the  
23 feeling being that those zones that are -  
24 that are working, and certainly in the case of  
25 the Poughkeepsie/Dutchess County Economic

1           Development Zone, it's been a model of sorts  
2           of successful zones, and I believe what would  
3           happen under this proposal as enacted, there  
4           would be yet additional economic development  
5           within the zones providing, subject to the  
6           limitations still contained within the bill,  
7           again the much needed flexibility.

8                           SENATOR LEICHTER:   Mr.  
9           President.

10                          ACTING PRESIDENT MEIER:  
11           Senator Leichter.

12                          SENATOR LEICHTER:   If Senator  
13           Saland will yield.

14                          ACTING PRESIDENT MEIER:  
15           Senator Saland, do you yield for a question?

16                          SENATOR SALAND:   Yes, Mr.  
17           President.

18                          ACTING PRESIDENT MEIER:  
19           Senator yields.

20                          SENATOR LEICHTER:   Yes,  
21           Senator.  In the fiscal implication section of  
22           your memo, you say that there will be some  
23           loss to the state initially, and then you make  
24           this possibly optimistic forecast that, in the  
25           future, this will bring in more money.

1                   SENATOR SALAND:  And that is  
2                   truly, Senator Leichter, what it's based upon  
3                   because right now these credits are not being  
4                   accessed as readily as we would like, so much  
5                   of these credits go unused and we believe the  
6                   greater flexibility will provide greater  
7                   access, greater use of the credit and, in  
8                   turn, by greater use of the credits there  
9                   could be some fiscal implications to the  
10                  state, nothing we consider to be monumental,  
11                  intended in the original legislation, but  
12                  never really, in fact, fully absorbed.  It's  
13                  more of the utility of the credit than  
14                  anything else, Senator Leichter.

15                  SENATOR LEICHTER:  Right.  
16                  Senator, am I also correct that this bill  
17                  limits or, I'm sorry, I should say removes the  
18                  limitation as to family members of a  
19                  particular corporation or entity that invests  
20                  in these credits?

21                  SENATOR SALAND:  The answer to  
22                  the question would be yes.  The -- the bill  
23                  would authorize a credit for investment by  
24                  family members.

25                  SENATOR LEICHTER:  And why are

1       you eliminating the prohibition that we  
2       initially wrote into the law?

3                   SENATOR SALAND:  Again, to try  
4       -- to try and encourage greater investment,  
5       to try to encourage, in effect, greater use of  
6       the economic development zones.  Some are  
7       being used and being used well, but I think  
8       their current record is somewhat checkered and  
9       we'd like to, in effect, expand the  
10      utilization of the economic development  
11      zones.

12                   SENATOR LEICHTER:  Well, just  
13      so -

14                   SENATOR SALAND:  And I might  
15      add that what occurs very often particularly  
16      with smaller businesses and minority-owned  
17      businesses, the -- the ability to reach out to  
18      people on a personal level, family members,  
19      sometimes is necessary in order to get some  
20      capital involved in your enterprise.

21                   SENATOR LEICHTER:  Mr.  
22      President, if Senator Saland will continue to  
23      yield.

24                   ACTING PRESIDENT MEIER:  
25      Senator Saland, do you continue to yield?

1                   SENATOR SALAND:  Yes, Mr.  
2           President.

3                   ACTING PRESIDENT MEIER:  
4           Senator yields.

5                   SENATOR LEICHTER:  I think  
6           that, in regard to minority-owned businesses  
7           where, as we know there isn't generally that  
8           access or availability to capital within  
9           families, I don't think that removing that  
10          restriction is of any assistance or affects  
11          that.  I think it unquestionably does provide  
12          greater credits to family members who now are  
13          -- under your bill would be able to invest in  
14          these zones, but my question to you really is  
15          that the -- that the zones, I agree with you,  
16          have had a checkered rate of success.  There  
17          are many reasons for that, but I don't believe  
18          that the main reason is that there hasn't been  
19          sufficient inducement or incentives for  
20          capital as far as tax benefits are concerned.  
21          It usually, I think, deals more with basic  
22          economic conditions, transportation, other  
23          costs, work force, and so on.

24                          My -- my concern, Senator, is  
25          that without it -- really having studied it

1 and I don't know whether we have a memorandum  
2 by ESD, our Economic Development Department,  
3 supporting this or saying we really need this  
4 to get these economic development zones going,  
5 whether we're not just opening ourselves to a  
6 loss of revenue to the state of New York.

7 SENATOR SALAND: Again, Senator  
8 Leichter, the loss of revenue would not be of  
9 any large consequence and would be through the  
10 utilization of what are currently -- currently  
11 amounts to unused credits.

12 This bill comes to me, as I  
13 mentioned in my opening remarks, from a group  
14 of zone coordinators who identified these  
15 provisions as being really necessary for them  
16 to have not only flexibility which -- which I  
17 indicated again a bit earlier but also to  
18 encourage greater use of economic development  
19 zones, and I -- as we have both acknowledged,  
20 the track record of the EDZs has been  
21 checkered, but with some pride I think I -- I  
22 can say that the economic development zone  
23 that lies within my Senate District, and this  
24 is not intended as puffery, has been  
25 recognized as having done really an

1 exceptional job, and is one of those that has  
2 been held up almost as a model to be  
3 replicated if that would be the appropriate  
4 way of describing their success, and they have  
5 indicated that this would be helpful for them  
6 to continue their endeavors to grow jobs and  
7 to sustain existing businesses.

8 SENATOR LEICHTER: Mr.

9 President, I think this was implicit in my  
10 questions, but let me ask it to you directly,  
11 not that I'm always one who relies upon the  
12 viewpoints of ESD or Chairman Gargano, but has  
13 the agency, the -- the ESD which administers  
14 this program, come and said, This is what we  
15 need to make the targeted zones more  
16 effective?

17 SENATOR SALAND: I'm advised  
18 that ESD staff has indicated their support.  
19 They have not provided -- have not provided a  
20 memo to that effect, and I think this is in  
21 part sort of a -- more of a grass roots  
22 endeavor coming from the people in the field,  
23 but with the support of ESD.

24 SENATOR LEICHTER: Well, is it  
25 -- Senator Saland.

1                   SENATOR SALAND: Let me just,  
2 not necessarily the formalized report because  
3 I do not have a memo.

4                   SENATOR LEICHTER: Senator  
5 Saland.

6                   ACTING PRESIDENT MEIER:  
7 Senator Leichter, do you wish Senator Saland  
8 to yield for another question?

9                   SENATOR LEICHTER: Yes, Mr.  
10 President.

11                   ACTING PRESIDENT MEIER:  
12 Senator Saland, do you yield?

13                   SENATOR SALAND: Yes, Mr.  
14 President.

15                   ACTING PRESIDENT MEIER:  
16 Sponsor yields.

17                   SENATOR LEICHTER: Senator,  
18 what concerns me, if I understand it, these  
19 credits that are being given and we're now  
20 authorizing the credits to be expanded, that  
21 decision is made by the local -- that decision  
22 is made by the local economic targeted zone;  
23 is that correct?

24                   SENATOR SALAND: I'm not sure  
25 if we're -- that you're correct in saying that

1 the credits are being expanded. We're  
2 expanding access to the credits. I don't  
3 believe we're -- we're saying that we're  
4 creating new categories of credits. Again  
5 through the flexibility, what we're attempting  
6 to do is get people to use the credits more  
7 extensively.

8 SENATOR LEICHTER: Right. I  
9 think you've stated it more precisely than I  
10 did, and I accept that, but the net result is  
11 that there will be tax credits available that  
12 are not currently available. I think we can  
13 agree on that.

14 SENATOR SALAND: I would phrase  
15 it a little differently. I would just say  
16 there are tax credits that may be used that  
17 are not currently being used.

18 SENATOR LEICHTER: Well -

19 SENATOR SALAND: Or the credits  
20 are currently available, let's say, in  
21 different denominations.

22 SENATOR LEICHTER: O.K.

23 SENATOR SALAND: And what we're  
24 saying is through greater flexibility, they  
25 will probably be accessed to a greater extent.

1                   SENATOR LEICHTER: Right, that  
2                   determination as to whether to give the tax  
3                   credit is made locally, is it not?

4                   SENATOR SALAND: Yes.

5                   SENATOR LEICHTER: And however,  
6                   the loss of revenue is felt by all the people  
7                   of the state of New York, is it not?

8                   SENATOR SALAND: At all levels,  
9                   correct.

10                  SENATOR LEICHTER: Right, and I  
11                  expect it's very much like IDA, where a local  
12                  decision is made. IDA financing and the state  
13                  of New York pays for it, but we have nothing  
14                  to say in the decision, isn't that correct?

15                  SENATOR SALAND: I'm sorry. I  
16                  didn't hear your comments.

17                  SENATOR LEICHTER: Well, when  
18                  you have an IDA financing which, as you know,  
19                  includes certain state tax benefits, sales tax  
20                  and other things, there's a loss of revenue to  
21                  the state of New York. That decision is made  
22                  locally but it affects the entire state of New  
23                  York.

24                  SENATOR SALAND: I'm having  
25                  enough difficulty dealing with your questions

1 on EDZs without making myself a maven on  
2 IDAs.

3 SENATOR LEICHTER: Well, Senator  
4 Saland -

5 ACTING PRESIDENT MEIER:  
6 Senator Leichter, do you wish Senator Saland  
7 to -

8 SENATOR LEICHTER: Yes, Senator  
9 Saland.

10 ACTING PRESIDENT MEIER: Do you  
11 continue to yield, Senator Saland?

12 SENATOR SALAND: Yes, I do.

13 ACTING PRESIDENT MEIER: The  
14 Senator yields.

15 SENATOR LEICHTER: I think  
16 that's the concern and the problem that we've  
17 made these credits available, but really the  
18 state of New York which provides the credit  
19 doesn't have the ultimate say about how  
20 they're going to be used, when they're going  
21 to be used, and that's -- that's my concern.

22 SENATOR SALAND: Well, the  
23 reality, Senator Leichter, at least to my  
24 knowledge, is that again I'll allude to what I  
25 said before about the checkered results with

1       these, using the EDZ in my district as an  
2       example, during the 1997 year there were some  
3       60 businesses that were certified to be in the  
4       program, and they added some 510 full-time  
5       jobs so if, in fact, there was some additional  
6       cost to the state by accessing any credit  
7       during the course of that problem, the state  
8       still was a major gainer, because those 510  
9       jobs generated a considerable amount of  
10      revenue simply through the ability to derive  
11      income tax revenues from those 510 jobs as  
12      well as any other revenues that the various  
13      communities may have received by people now  
14      being employed in the communities through  
15      sales tax or any business taxes that may have  
16      inured to the benefit of the community.

17                    So that to me goes -- I think  
18      what we're basically talking about is two  
19      distinctly different approaches to the entity  
20      itself. The -- my approach would be that yes,  
21      it is costing the state some money, but it's  
22      state -- it's money that the state, in  
23      creating this -- this system, and this spans  
24      more than this governor; goes back to prior  
25      governors -- was attempting to encourage

1 economic development knowing that, in the  
2 course of spending some money, whether it be  
3 through tax credits or sales tax breaks or any  
4 of the other breaks that apply in these  
5 districts, that they were going to foster job  
6 development, economic development, and the  
7 overall impact would be a net gain and hope  
8 fully a considerable net gain to the treasury  
9 of the state of New York and surrounding -  
10 and including the communities.

11 SENATOR LEICHTER: Mr.

12 President -- thank you very much, Senator  
13 Saland. As always, you've put forward a strong  
14 argument for your bill, not strong enough for  
15 me, but -- but I suspect for most of the other  
16 members, because I -- my years here I've found  
17 if you get up and you say this is good for  
18 economic development, you can pass almost  
19 every -- almost anything, and I understand the  
20 logic behind what Senator Saland is saying and  
21 we try to induce greater economic activity by  
22 giving tax credits.

23 I was never a big fan of these  
24 targeted economic zones and, as Senator Saland  
25 admits, their achievement and record has been

1 mixed because I think there's a limit really  
2 to what tax credits do. There are so many  
3 more important considerations for businesses  
4 in deciding where to site their -- their  
5 facilities; but my concern with this is -- and  
6 it is related to the IDA -- we created the IDA  
7 system with the best of intention. Then we  
8 found out that both our localities and the  
9 state of New York were losing a great deal of  
10 money that was being determined locally by  
11 people whose interests sometimes tended to be  
12 very parochial and very selfish, and the same  
13 problem, the same risks, exist here.

14 Now, when we set up this  
15 program, we put a limit of \$100,000 on these  
16 credits. We also said, we're not going to  
17 allow family members to -- to access into this  
18 program. Senator Saland is eliminating this  
19 with the best of intentions saying, "I want to  
20 bring more capital in and maybe that will get  
21 some of these zones working more  
22 effectively."

23 My concern is, and why I'm  
24 going to vote against the bill, is because I  
25 don't think it gives the state of New York

1 sufficient say over its own revenue, and  
2 while, as I've said, I have some problems with  
3 UD... and you know I've been critical of UDC,  
4 but at least I'd like to see some state  
5 involvement before we authorize the use of  
6 state funds, and that's really what's involved  
7 here and, for that reason, I'm going to vote  
8 against it.

9 ACTING PRESIDENT MEIER: Read  
10 the last section.

11 THE SECRETARY: Section 6.  
12 This act shall take effect in 60 days.

13 ACTING PRESIDENT MEIER: Call  
14 the roll.

15 (The Secretary called the  
16 roll. )

17 THE SECRETARY: Ayes 57.

18 ACTING PRESIDENT MEIER: The  
19 bill is passed. Wait a minute. Hold it.

20 THE SECRETARY: In relation to  
21 Calendar 1374, ayes 56, nays one, Senator  
22 Leichter recorded in the negative.

23 ACTING PRESIDENT MEIER: The  
24 bill is still passed.

25 Secretary will continue to read

1 the calendar.

2 THE SECRETARY: Calendar Number  
3 1385, substituted earlier today, by member of  
4 the Assembly Vitaliano, Assembly Print 5534-A,  
5 an act to amend the Education Law, and the  
6 Administrative Code of the city of New York.

7 ACTING PRESIDENT MEIER: Lay  
8 that bill aside temporarily.

9 Senator Skelos.

10 SENATOR SKELOS: Could you  
11 please return to Calendar Number 1381.

12 ACTING PRESIDENT MEIER:  
13 Secretary will read Calendar Number 1381.

14 THE SECRETARY: Calendar Number  
15 1381, by Senator Skelos, Senate Print 317-C,  
16 an act to amend the Insurance Law, in relation  
17 to policy coverage.

18 ACTING PRESIDENT MEIER:  
19 Senator Leichter, why do you rise?

20 SENATOR LEICHTER: Yes, I was  
21 going to ask for an explanation, and then I  
22 was going to ask a question of Senator Skelos.

23 ACTING PRESIDENT MEIER:  
24 Senator Skelos, Senator Leichter is requesting  
25 an explanation of Calendar Number 1381.

1                   SENATOR SKELOS: Mr. President,  
2                   this bill would prevent the refusal to issue  
3                   or renew any policy of life or non-cancelable  
4                   disability insurance solely on the basis of  
5                   the results of genetic testing for cancer or  
6                   because an individual has had any type of  
7                   cancer.

8                   Presently, this legislation  
9                   which passed the Senate, I believe in 1997,  
10                  actually is the law. We have a law that  
11                  relates just to breast cancer, and this would  
12                  extend it to all cancers and also to the  
13                  genetic testing aspect of it.

14                  SENATOR LEICHTER: Mr.  
15                  President, if Senator Skelos would yield.

16                  ACTING PRESIDENT MEIER:  
17                  Senator Skelos, do you yield to a question?

18                  SENATOR SKELOS: Yes.

19                  ACTING PRESIDENT MEIER:  
20                  Senator yields.

21                  SENATOR LEICHTER: Yes,  
22                  Senator, I support this. I'm just concerned,  
23                  language in here which maybe what it gives  
24                  with the left hand it takes away with the  
25                  right hand because it says that relying on

1 genetic testing, so on, is prohibited, but  
2 then you say "\*\*\* unless the action is based  
3 upon sound actuarial experience or is related  
4 to actual or reasonably anticipated  
5 experience."

6                   Wouldn't that allow an  
7 insurance company to say, Well, we believe  
8 it's reasonable to expect that somebody who  
9 has genetic predilections to cancer is likely  
10 to develop it and we're not going to insure  
11 them?

12                   SENATOR SKELOS: Senator  
13 Leichter, you're partially correct. It's my  
14 understanding in other areas of law that  
15 involve insurance, there is this type of  
16 language, but you are absolutely correct that  
17 there is this potential, but we believe the  
18 legislation as drafted will protect  
19 individuals with cancer and with the genetic  
20 testing bill.

21                   SENATOR LEICHTER: Well,  
22 Senator, if you would yield for one more  
23 question.

24                   ACTING PRESIDENT MEIER:  
25 Senator Skelos, do you yield for another

1 question?

2 SENATOR SKELOS: Yes, I do.

3 ACTING PRESIDENT MEIER:

4 Senator yields.

5 SENATOR LEICHTER: Senator,  
6 couldn't we take out that limitation? I mean  
7 I think that's a fairly large loophole for an  
8 insurance company to defeat what is the very  
9 laudable purpose of your bill.

10 SENATOR SKELOS: Something we  
11 could look at next year, Senator Leichter.

12 SENATOR LEICHTER: O.K.

13 Mr. President, just -- I thank  
14 Senator Skelos.

15 ACTING PRESIDENT MEIER:

16 Senator Leichter, on the bill.

17 SENATOR LEICHTER: I mean,  
18 certainly I'm going to vote for it and don't  
19 urge anybody to vote for it, but I think we've  
20 got to be careful about going out and telling  
21 the world, Look what we've done to try to  
22 provide insurance coverage for people who  
23 might not get it when, in point of fact, the  
24 law or this bill is so written, as Senator  
25 Skelos very candidly and very honorably

1       concedes, that insurance companies have a  
2       great latitude to ignore the very direction  
3       that we're trying to give them not to  
4       discriminate against people who may  
5       genetically test for cancer.

6                        So let's pass this, but I think  
7       we have a job to do to really provide the  
8       protection that Senator Skelos and all of us  
9       want to give.

10                      ACTING PRESIDENT MEIER:  Read  
11       the last section.

12                      THE SECRETARY:  Section 3.  
13       This act shall take effect on the 180th day.

14                      ACTING PRESIDENT MEIER:  Call  
15       the roll.

16                      (The Secretary called the  
17       roll. )

18                      THE SECRETARY:  Ayes 57.

19                      ACTING PRESIDENT MEIER:  The  
20       bill is passed.

21                      THE SECRETARY:  Calendar Number  
22       1385, substituted earlier today, by member of  
23       the Assembly Vitaliano, Assembly Print 5534-A,  
24       an act to amend the Education Law, and the  
25       Administrative Code of the city of New York.

1                   ACTING PRESIDENT MEIER:

2           Senator Paterson.

3                   SENATOR PATERSON:  Might we lay  
4           that aside just for a moment for Senator  
5           Dollinger, who I believe is in Finance.

6                   ACTING PRESIDENT MEIER:  
7           Secretary will lay it aside temporarily.

8                   I'm sorry.  Senator Trunzo.

9                   SENATOR TRUNZO:  Yes, sir.

10                  ACTING PRESIDENT MEIER:  
11          Senator Paterson has requested that Calendar  
12          1385 be laid aside temporarily.

13                  SENATOR TRUNZO:  May I ask why?

14                  ACTING PRESIDENT MEIER:  He's  
15          waiting for Senator Dollinger who requested an  
16          explanation.

17                  SENATOR TRUNZO:  Oh, Dollinger?  
18          Fine.  Lay it aside temporarily.

19                  SENATOR PATERSON:  Mr.  
20          President, Senator Dollinger is in the Finance  
21          Committee, and my feeling is if it slows the  
22          process up because a member is not in the  
23          chamber, I can understand that because each of  
24          us has a fair opportunity to be here, and  
25          we're all supposed to be here, but when a

1 member is actually in a committee that's  
2 called off the floor, it makes it very  
3 difficult for the member to debate the bill  
4 and keep the attendance in the committee.

5 ACTING PRESIDENT MEIER: And  
6 the Chair also cites the Leichter rule of  
7 inability to be in two places at once.

8 Secretary will continue to read  
9 the calendar.

10 THE SECRETARY: Calendar Number  
11 1389, substituted earlier today, by member of  
12 the Assembly Vitaliano, Assembly Print 6946-A,  
13 an act to amend the Civil Service Law, in  
14 relation to the placement.

15 ACTING PRESIDENT MEIER:  
16 Senator Paterson.

17 SENATOR PATERSON: May we have  
18 an explanation.

19 SENATOR MARCELLINO: Mr.  
20 President, may we lay that bill aside  
21 temporarily because Senator Stafford is  
22 chairing the Finance Committee.

23 ACTING PRESIDENT MEIER: We'll  
24 lay the bill aside temporarily.

25 THE SECRETARY: Calendar Number

1 1390, by Senator Spano, Senate Print 5573-A,  
2 an act to amend the General Municipal Law, in  
3 relation to bureaus.

4 ACTING PRESIDENT MEIER: Lay  
5 the bill aside temporarily.

6 Secretary will continue to  
7 read.

8 Calendar Number 1390, read the  
9 last section.

10 SENATOR MARCELLINO: I thought  
11 you laid it aside temporarily.

12 ACTING PRESIDENT MEIER: The  
13 bill will be laid aside temporarily at the  
14 request of the Acting Majority Leader.

15 THE SECRETARY: Calendar Number  
16 1391, by Senator Skelos, Senate Print 5949-A,  
17 an act to amend the Correction Law and the  
18 Executive Law.

19 ACTING PRESIDENT MEIER: Read  
20 the last section.

21 THE SECRETARY: Section 3.  
22 This act shall take effect on the 21st day of  
23 January.

24 ACTING PRESIDENT MEIER: Call  
25 the roll.

1 (The Secretary called the  
2 roll.)

3 THE SECRETARY: Ayes 57.

4 ACTING PRESIDENT MEIER: The  
5 bill is passed.

6 THE SECRETARY: Calendar Number  
7 1392.

8 ACTING PRESIDENT MEIER:  
9 Senator Paterson, why do you rise?

10 SENATOR PATERSON: Mr.  
11 President, just a moment ago Calendar Number  
12 1389 was laid aside because the chair of the  
13 Finance Committee is not here. We don't have  
14 a problem with Calendar Number 1389. It was  
15 apparently inadvertently laid aside earlier.

16 SENATOR MARCELLINO: Mr.  
17 President, in light of that comment, may we  
18 return back to 1389 and read the last  
19 section.

20 ACTING PRESIDENT MEIER:  
21 Secretary -- excuse me. Calendar -- the  
22 Secretary will read Calendar 1389.

23 THE SECRETARY: Calendar Number  
24 1389, substituted earlier today, by member of  
25 the Assembly Vitaliano, Assembly Print 6946-A,

1 an act to amend the Civil Service Law.

2 ACTING PRESIDENT MEIER: Read  
3 the last section.

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

7 ACTING PRESIDENT MEIER: Call  
8 the roll.

9 (The Secretary called the  
10 roll.)

11 THE SECRETARY: Ayes 57.

12 ACTING PRESIDENT MEIER: The  
13 bill is passed.

14 THE SECRETARY: Calendar Number  
15 1392, by Senator Skelos, Senate Print 6201, an  
16 act to amend the Domestic Relations Law and  
17 the Penal Law.

18 ACTING PRESIDENT MEIER: Read  
19 the last section.

20 THE SECRETARY: Section 4. This  
21 act -

22 SENATOR MARCELLINO: Lay that  
23 bill aside temporarily.

24 ACTING PRESIDENT MEIER: Lay  
25 the bill aside temporarily.

1 THE SECRETARY: Calendar Number  
2 1393, by Senator Rath, Senate Print 6284-B, an  
3 act to amend the Real Property Tax Law, in  
4 relation to clarifying.

5 ACTING PRESIDENT MEIER: Read  
6 the last section.

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

9 ACTING PRESIDENT MEIER: Call  
10 the roll.

11 (The Secretary called the  
12 roll. )

13 THE SECRETARY: Ayes 57.

14 ACTING PRESIDENT MEIER: The  
15 bill is passed.

16 THE SECRETARY: Calendar Number  
17 1402, substituted earlier today, by the  
18 Assembly Committee on Rules, Assembly Print  
19 10858-A, an act to amend the Social Services  
20 Law.

21 ACTING PRESIDENT MEIER: Read  
22 the last section.

23 THE SECRETARY: Section -

24 ACTING PRESIDENT MEIER:  
25 Senator Paterson, why do you rise?

1                   SENATOR PATERSON: I'm sorry,  
2                   Mr. President. May we have an explanation on  
3                   this bill?

4                   ACTING PRESIDENT MEIER:  
5                   Senator Holland, an explanation has been  
6                   requested by Senator Paterson.

7                   SENATOR PATERSON: No, wait,  
8                   Mr. President. Senator Montgomery does not  
9                   have a problem with this bill any longer, Mr.  
10                  President. This bill is fine; it's great.

11                  ACTING PRESIDENT MEIER: Read  
12                  the last section.

13                  THE SECRETARY: Section 4. This  
14                  act shall take effect December 31.

15                  ACTING PRESIDENT MEIER: Call  
16                  the roll.

17                  (The Secretary called the  
18                  roll. )

19                  THE SECRETARY: Ayes 57.

20                  ACTING PRESIDENT MEIER: The  
21                  bill is passed.

22                  THE SECRETARY: Calendar Number  
23                  1405, by Senator Leibell, Senate Print 7189,  
24                  an act to amend the New York City Charter.

25                  ACTING PRESIDENT MEIER: There

1 is a home rule message at the desk. Read the  
2 last section.

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

5 ACTING PRESIDENT MEIER: Call  
6 the roll.

7 (The Secretary called the  
8 roll. )

9 ACTING PRESIDENT MEIER:  
10 Senator Paterson, why do you rise?

11 SENATOR PATERSON: This is laid  
12 aside by Senator Leichter. Well, it didn't  
13 help that he walked in here with a bagel and a  
14 tea before, but he really is in Finance, Mr.  
15 President.

16 ACTING PRESIDENT MEIER: Lay  
17 the bill aside at the request of the Deputy  
18 Minority Leader.

19 Secretary will continue to  
20 read.

21 THE SECRETARY: Calendar Number  
22 1407, by Senator Padavan, Senate Print 7410,  
23 an act to amend the Retirement and Social  
24 Security Law, in relation to authorizing.

25 SENATOR PATERSON: Explanation,

1 Mr. President.

2 ACTING PRESIDENT MEIER:

3 Senator Padavan, an explanation has been  
4 requested of Calendar 1407 by Senator  
5 Paterson.

6 SENATOR PADAVAN: Mr. President,  
7 what this bill does is correct an inequity  
8 that exists in current law dealing with the  
9 process that allows people who are members of  
10 certain systems to have an administrative  
11 review of a denial of an accident and/or  
12 disability retirement application by a special  
13 committee.

14 Currently, that opportunity  
15 exists for Tier I and Tier II employees. It  
16 does not exist for Tier III and Tier IV  
17 employees of the New York City Employees'  
18 Retirement System. We wish to extend that  
19 right really for equity's sake and none  
20 other.

21 ACTING PRESIDENT MEIER: Read  
22 the last section.

23 SENATOR GENTILE: Mr.  
24 President.

25 ACTING PRESIDENT MEIER:

1 Senator Gentile, why do you rise?

2 SENATOR GENTILE: I believe  
3 there's an amendment at the desk.

4 ACTING PRESIDENT MEIER: Yes,  
5 there is.

6 SENATOR GENTILE: I'd ask that  
7 you waive the reading and allow to explain.

8 ACTING PRESIDENT MEIER: The  
9 reading is waived and you're recognized for  
10 the purpose of explaining your amendment.

11 SENATOR GENTILE: Thank you,  
12 Mr. President.

13 I want to congratulate Senator  
14 Padavan for introducing legislation which  
15 really extends the due process rights for Tier  
16 III and Tier IV employees of the New York City  
17 Retirement System.

18 My amendment, Mr. President,  
19 would actually do the same, would extend the  
20 due process rights to New York City  
21 Firefighters with accidental disability  
22 claims, and it is -- it is in keeping with  
23 Senator Padavan's concern over extending the  
24 due process rights to the Tier III and Tier IV  
25 employees.

1 Presently, Mr. President, acci  
2 dental disability determinations for New York  
3 City firefighters are currently made by the  
4 Board of Trustees of the Fire Department  
5 Pension Fund, and that determination is based  
6 on information and recommendations made by the  
7 fund's medical board. Injured workers  
8 currently, injured firefighters, have no  
9 opportunity to review and challenge that  
10 information that is made -- that constitutes  
11 the decision of the board. If the Board of  
12 Trustees is split on the question of  
13 accidental disability for firemen, that  
14 applicant is retired on an ordinary disability  
15 pension which is a smaller benefit package,  
16 and then the firefighter is relegated to the  
17 court system to appeal that decision.

18 Certainly Senator Padavan's  
19 amendment is to avoid the court process for  
20 Tier III and Tier IV employees. My amendment  
21 to Senator Padavan's bill also has the goal of  
22 avoiding the court process and providing a  
23 more efficient and more direct administrative  
24 review for New York City firefighters.

25 It would allow them now to

1 present witnesses and to present evidence to a  
2 hearing provided by the Board of Trustees of  
3 the City Fire Department Pension Fund,  
4 something which doesn't exist right now and  
5 this also, Mr. President, is in keeping with  
6 the rights and the due process rights that  
7 firefighters everywhere else in the state of  
8 New York currently have affordable to them -  
9 afforded to them; for example, firefighters  
10 outside of the City are entitled to a hearing  
11 with the state Comptroller when the state  
12 Comptroller's determination on their  
13 application for accidental disability is  
14 denied. The hearing is afforded to them under  
15 the Retirement and Social Security Law, and is  
16 similar to the provisions now I'm suggesting  
17 we institute for New York City firefighters.

18 I think this is something we  
19 owe them, something that will help the system  
20 operate more efficiently. It's in keeping  
21 with Senator Padavan's goals under the  
22 legislation he's providing, so I ask that we  
23 make this a package and make this amendment to  
24 Senator Padavan's bill.

25 ACTING PRESIDENT MEIER:

1 Question is on the amendment. All those in  
2 favor of the amendment signify by saying aye.

3 SENATOR ONORATO: Party vote in  
4 the affirmative.

5 SENATOR MARCELLINO: Party vote  
6 in the negative.

7 ACTING PRESIDENT MEIER:  
8 Secretary will call the roll.

9 (The Secretary called the  
10 roll. )

11 THE SECRETARY: Ayes 23, nays  
12 34, party vote.

13 ACTING PRESIDENT MEIER: The  
14 amendment fails.

15 Read the last section.

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

18 ACTING PRESIDENT MEIER: Call  
19 the roll.

20 (The Secretary called the  
21 roll.)

22 THE SECRETARY: Ayes 57.

23 ACTING PRESIDENT MEIER: The  
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 1409, by Senator Trunzo, Senate Print 7474, an  
2 act to amend the Local Finance Law, in  
3 relation to providing.

4 SENATOR MARCELLINO: Lay the  
5 bill aside temporarily.

6 ACTING PRESIDENT MEIER: Lay  
7 the bill aside temporarily.

8 SENATOR MARCELLINO: Mr.  
9 President.

10 ACTING PRESIDENT MEIER: Just a  
11 second. We want to clean up the record here.  
12 For the purposes of the record, there was a  
13 home rule message at the desk for 1407, Senate  
14 Print 7410.

15 Secretary will continue to  
16 read.

17 THE SECRETARY: Calendar Number  
18 1411, by the Senate Committee on Rules.

19 ACTING PRESIDENT MEIER:  
20 Senator Marcellino.

21 SENATOR MARCELLINO: The next  
22 four bills, I'm told that are on the lay aside  
23 calendar are under the LL rule, Leichter lay  
24 aside rules, and since he is not available,  
25 we're trying to accommodate laying those bills

1       aside temporarily.

2                   ACTING PRESIDENT MEIER:   O.K.

3       For the purpose of keeping the record clear,  
4       why don't we let the Secretary read and why  
5       don't you indicate the ones you're requesting  
6       to lay aside.

7                   Secretary will continue to read  
8       the calendar.

9                   SENATOR MARCELLINO:   Here he  
10       is. Oh, hold it. We can lay aside the  
11       Leichter lay aside law temporarily, of  
12       course.

13                   ACTING PRESIDENT MEIER:  
14       Whatever that means, so ordered.

15                   Secretary will continue to read  
16       the calendar.

17                   THE SECRETARY:   Calendar Number  
18       1411, by the Senate Committee on Rules, Senate  
19       Print 7548-A, an act to amend the  
20       Administrative Code of the city of New York.

21                   ACTING PRESIDENT MEIER:  
22       There's a home rule message at the desk.

23                   SENATOR LEICHTER:   Explanation,  
24       please.

25                   ACTING PRESIDENT MEIER:

1 Senator Trunzo, an explanation has been  
2 requested by Senator Leichter.

3 SENATOR TRUNZO: Mr. President,  
4 what this bill does is it provides for the  
5 transfer of reserve funds from the New York  
6 City Fire Department Pension Fund to the New  
7 York City Firefighters Pension Fund when a  
8 police officer becomes a fireman or fireman  
9 becomes a police officer, whichever way, so  
10 that funds pertaining to that individual are  
11 transferred to the proper pension reserve  
12 system.

13 SENATOR LEICHTER: May I just  
14 ask Senator Trunzo a question?

15 ACTING PRESIDENT MEIER:  
16 Senator Trunzo, do you yield to a question?

17 SENATOR TRUNZO: Yes.

18 ACTING PRESIDENT MEIER: The  
19 Senator yields.

20 SENATOR LEICHTER: Is this  
21 being enacted with any one particular person  
22 in mind?

23 SENATOR TRUNZO: No, this is a  
24 general -

25 SENATOR LEICHTER: Generic

1 thing.

2 SENATOR TRUNZO: General -  
3 generic thing because the present law doesn't  
4 permit that to happen in the police fund, to  
5 be transferred to the fire pension fund.

6 SENATOR LEICHTER: No  
7 objection.

8 SENATOR TRUNZO: Last section.

9 ACTING PRESIDENT MEIER: Read  
10 the last section.

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

13 ACTING PRESIDENT MEIER: Call  
14 the roll.

15 (The Secretary called the  
16 roll. )

17 THE SECRETARY: Ayes 57.

18 ACTING PRESIDENT MEIER: The  
19 bill is passed.

20 THE SECRETARY: Calendar Number  
21 1412, by Senator Holland, Senate Print 7571,  
22 an act to amend the Education Law, in relation  
23 to extending.

24 SENATOR MARCELLINO: Mr.  
25 President, lay that bill aside temporarily.

1                   ACTING PRESIDENT MEIER: Lay  
2 the bill aside temporarily.

3                   THE SECRETARY: Calendar Number  
4 1414, by Senator Balboni, Senate Print 7614,  
5 an act to permit the sale or lease of Pond  
6 View Homes.

7                   SENATOR MARCELLINO: Lay that  
8 aside temporarily at the request of the  
9 sponsor.

10                  ACTING PRESIDENT MEIER: Lay it  
11 aside temporarily at the request of the  
12 sponsor.

13                  THE SECRETARY: Calendar Number  
14 1415, by Senator Alesi, Senate Print 7633, an  
15 act to amend the Local Finance Law, in  
16 relation to establishing.

17                  SENATOR MARCELLINO: Lay it  
18 aside temporarily.

19                  ACTING PRESIDENT MEIER: Lay  
20 the bill aside temporarily.

21                  SENATOR MARCELLINO: Mr.  
22 President.

23                  ACTING PRESIDENT MEIER:  
24 Senator Marcellino.

25                  SENATOR MARCELLINO: May we

1 return to Calendar 1409, please.

2 ACTING PRESIDENT MEIER:

3 Secretary will read Calendar Number 1409.

4 THE SECRETARY: Calendar Number  
5 1409, by Senator Trunzo, Senate Print 7474, an  
6 act to amend the Local Finance Law.

7 ACTING PRESIDENT MEIER:

8 There's a home rule message at the desk.

9 SENATOR LEICHTER: Explanation.

10 ACTING PRESIDENT MEIER:

11 Senator Trunzo, an explanation has been  
12 requested by Senator Leichter of Calendar  
13 1409.

14 SENATOR TRUNZO: Mr. President,  
15 what this bill does, under the retirement  
16 incentive program that was passed in 1995 and  
17 1997, the county of Suffolk must pay to the  
18 state unamortized costs at an interest rate of  
19 eight and a half percent. They want to go out  
20 on bonding because they can bond it on their  
21 own at six percent to pay back the system and  
22 as a result saving \$750,000 for the county in  
23 interest payments.

24 SENATOR LEICHTER: Mr.

25 President, would Senator Trunzo yield?

1 SENATOR TRUNZO: Yes.

2 ACTING PRESIDENT MEIER:

3 Senator Trunzo. Do you yield for a question?

4 Senator yields.

5 SENATOR LEICHTER: Senator, my  
6 understanding that other counties throughout  
7 the state were all caught in this situation  
8 where these paybacks had to be made to the  
9 pension fund; is that correct?

10 SENATOR TRUNZO: Yes.

11 SENATOR LEICHTER: Where are  
12 we? If this is good for Suffolk County, why  
13 isn't it good for Nassau?

14 SENATOR TRUNZO: They haven't  
15 asked for it.

16 SENATOR LEICHTER: Excuse me?

17 SENATOR TRUNZO: They haven't  
18 asked for it. Evidently they don't want to  
19 make the change. For Suffolk County, the  
20 bonding would give them a six percent rate  
21 and, therefore, they want to save \$750,000.  
22 But some counties, I understand some counties  
23 already did that in the past, but I don't know  
24 which ones they are.

25 SENATOR LEICHTER: Mr.

1 President, if I just may, Senator Trunzo,  
2 suggest this is really the sort of thing that  
3 ought to be done on a statewide basis. All of  
4 these counties were required, localities were  
5 required to make these pension payments. I  
6 don't know whether it's to the benefit of  
7 other counties to do this. I imagine it would  
8 be if it's a benefit to Suffolk.

9 SENATOR TRUNZO: Apparently  
10 some of them did.

11 SENATOR LEICHTER: But, Senator,  
12 we represent all the people of the state of  
13 New York. You do a terrific job in your  
14 committee, and I mean that very sincerely.  
15 Why not do it statewide? They're not required  
16 under this bill, but give them that latitude.

17 SENATOR TRUNZO: Well, at this  
18 point, Suffolk County asked for it, and we're  
19 doing it for the county. I have no problem  
20 doing a statewide bill. But this bill is -

21 SENATOR LEICHTER: My point is,  
22 we are not going to sit back here and say,  
23 they don't ask for it, we aren't going to do  
24 it. My point is we ought to be doing these  
25 things on a statewide basis.

1                   ACTING PRESIDENT MEIER: Read  
2                   the last section.

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

5                   ACTING PRESIDENT MEIER: Call  
6                   the roll.

7                   (The Secretary called the  
8                   roll.)

9                   THE SECRETARY: Ayes 57.

10                  ACTING PRESIDENT MEIER: The  
11                  bill is passed.

12                  SENATOR MARCELLINO: Mr.  
13                  President.

14                  ACTING PRESIDENT MEIER:  
15                  Senator Marcellino.

16                  SENATOR MARCELLINO: Can we go  
17                  back to Calendar Number 1405, please.

18                  ACTING PRESIDENT MEIER:  
19                  Secretary will read Calendar Number 1405.

20                  THE SECRETARY: Calendar Number  
21                  1405, by Senator Leibell, Senate Print 7189,  
22                  an act to amend the New York City Charter.

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

25                  SENATOR LEICHTER:

1 Explanation.

2 ACTING PRESIDENT MEIER:  
3 Senator Leibell, an explanation has been  
4 requested of Calendar 1405, by Senator  
5 Leichter.

6 SENATOR LEIBELL: Thank you,  
7 Mr. President.

8 This is an act to amend the New  
9 York City Charter in relation to permitting  
10 fire personnel to accept other offices and to  
11 repeal Section 1130 of the New York City  
12 charter relating thereto.

13 Section 1 of this legislation  
14 repeals Section 1130 of the City Charter, adds  
15 a new Section 1130 which states that fire  
16 personnel may accept other offices as long as  
17 it does not interfere with his or her duty as  
18 a member of the fire department. In the event  
19 holding such office does interfere with his or  
20 her duty to the department -- to the fire  
21 department it may require such member to be on  
22 a leave of absence without pay from the  
23 department during the time such member holds  
24 such office.

25 Currently members of the New

1 York City Fire Department are precluded from  
2 holding elective office. The only exception  
3 to this rule is they may be elected to a  
4 community or local school board. This would  
5 allow them to accept any other place of public  
6 trust or elective office provided, however,  
7 that the fire commissioners may require this  
8 member to be on leave of absence without pay  
9 from the department during the time such  
10 member holds such office.

11 SENATOR LEICHTER: Mr.  
12 President, if Senator Leibell will yield.

13 ACTING PRESIDENT MEIER:  
14 Senator Leibell, do you yield?

15 SENATOR LEIBELL: Yes.

16 ACTING PRESIDENT MEIER:  
17 Senator yields.

18 SENATOR LEICHTER: Senator  
19 Leibell, I realize there is a home rule  
20 message from the City Council, but has the  
21 fire commissioner or the mayor of the city of  
22 New York given their support to this bill?

23 SENATOR LEIBELL: No, we relied  
24 on this message. We have not had any  
25 communication from the mayor's office on this

1 one.

2 SENATOR LEICHTER: And you have  
3 not received any memo in opposition either?

4 SENATOR LEIBELL: No, I have  
5 not.

6 SENATOR LEICHTER: Mr.  
7 President, my concern with this bill is I -- I  
8 mean it's nice of you to come in and step out  
9 and help the city of New York in changing its  
10 Administrative Code, but with all due respect  
11 maybe we'd be better off letting the City  
12 Council do that together with the mayor than  
13 doing it in this fashion, which is sort of an  
14 end run and it just seems to me that the city  
15 of New York ought to have the right to  
16 determine its general policy as to whether  
17 members of the uniformed services will be  
18 allowed to hold public office.

19 I don't know, I -- frankly, I  
20 don't have any problem if a fireman wants to  
21 serve in the legislature or police officer or  
22 sanitation officer, but it just seems to me  
23 that that's a matter that ought to be  
24 determined by the city of New York going  
25 through its regular charter process for

1           amending the charter instead of going and  
2           doing it in this fashion.  Maybe -- maybe  
3           there's some reason for it that you could  
4           explain to me why you are amending the City  
5           Charter in this fashion.

6                         SENATOR LEIBELL:  Well, it was  
7           -- Senator, in response to your inquiry, this  
8           was requested by the Independent Firefighters  
9           Association and the fact is that it came to us  
10          with a home rule request which was, in effect,  
11          the city's acknowledgement and imprimatur on  
12          us proceeding, and this does require our  
13          legislative action.

14                        SENATOR LEICHTER:  Well,  
15          Senator Leibell, if you will yield to one more  
16          question.

17                        ACTING PRESIDENT MEIER:  
18          Senator Leibell, do you yield to another  
19          question?

20                        SENATOR LEIBELL:  Yes.

21                        ACTING PRESIDENT MEIER:  
22          Senator yields.

23                        SENATOR LEICHTER:  But the City  
24          Charter, am I not correct, can also be amended  
25          by the City Council, but then it would require

1 the vote of the -- or the approval of the  
2 mayor, right? They could -- they could do  
3 this.

4 SENATOR LEIBELL: I'm not sure  
5 whether or not they could do this.

6 SENATOR LEICHTER: Well -

7 SENATOR LEIBELL: If you're  
8 sure, that's fine. All I can tell you is that  
9 we have not had any communication from New  
10 York City. They have not brought that to our  
11 attention or requested that we not put this  
12 in. In fact, we got the home rule.

13 SENATOR LEICHTER: Mr.  
14 President, I -- thank you very much, Senator  
15 Leibell.

16 ACTING PRESIDENT MEIER:  
17 Senator Leichter, on the bill.

18 SENATOR LEICHTER: I understand  
19 Senator Leibell is carrying this for an  
20 association, and so on, but it's a city of New  
21 York bill. It affects how the city of New  
22 York governs itself. The fact that you have a  
23 home rule message doesn't mean that it's gone  
24 through the process that it should in the city  
25 of New York where the mayor has to agree,

1       where you would have the fire commissioner  
2       comment if you followed the process of  
3       amending the charter in the -- in the regular  
4       governmental process that exists in the city  
5       of New York.

6                   I just think it's a wrong thing  
7       to come up here in the state Legislature, and  
8       in this fashion tinker with the Administrative  
9       Code of the city of New York.

10                   ACTING PRESIDENT MEIER:  Read  
11       the last section.

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

14                   ACTING PRESIDENT MEIER:  Call  
15       the roll.

16                   (The Secretary called the  
17       roll. )

18                   THE SECRETARY:  Ayes 57, nays  
19       one, Senator Leichter recorded in the  
20       negative.

21                   ACTING PRESIDENT MEIER:  The  
22       bill is passed.

23                   SENATOR MARCELLINO:  Mr.  
24       President.

25                   ACTING PRESIDENT MEIER:

1 Senator Marcellino.

2 SENATOR MARCELLINO: May we  
3 move to Calendar Number 1427, please.

4 ACTING PRESIDENT MEIER:  
5 Secretary will read Calendar 1427.

6 THE SECRETARY: Calendar Number  
7 1427, by Senator Goodman, Senate Print 7687,  
8 an act to amend the Tax Law, in relation to  
9 corporate mergers.

10 SENATOR LEICHTER: Explanation.

11 ACTING PRESIDENT MEIER:  
12 Senator Goodman, an explanation of Calendar  
13 Number 1427 has been requested by Senator  
14 Leichter.

15 SENATOR GOODMAN: Mr. President,  
16 this is a Governor's Program bill, the purpose  
17 of which is to remove from the Tax Law and the  
18 Administrative Code of the City of New York  
19 provisions relating to corporate acquisitions,  
20 mergers and consolidations which are added by  
21 Chapter 61 of the Laws of 1989. The bill  
22 repeals various provisions penalizing corpor  
23 ate acquisitions, mergers and consolidations,  
24 would remove disincentives for otherwise  
25 economically desirable corporate activities,

1 notably parent corporations headquartered in  
2 New York City or in New York State would have  
3 a diminished incentive to relocate due to the  
4 repeal of these provisions which could nega  
5 tively impact their activities relating to  
6 their corporate families. In addition, since  
7 these provisions have not, in practice, been  
8 applicable to a large number of transactions,  
9 their repeal will not have a significant im  
10 pact on the revenue, although it will reduce  
11 tax compliance burdens in individual cases.

12 Mr. President, I understand  
13 that there may be some question in the minds  
14 of the distinguished members of the Minority  
15 with regard to a bill that was passed in the  
16 house recently by Senator Nozzolio, and I  
17 would like to have you understand that there  
18 is a distinction between his bill and ours.  
19 They do not overlap totally, by any means, and  
20 I would like to clarify what the areas of non  
21 overlap are. The Nozzolio bill passed on  
22 Monday only dealt with only three portions of  
23 this bill. The Nozzolio bill deleted carry  
24 forwards only in regard to acquisitions, not  
25 mergers and consolidations as this bill does,

1 and the Nozzolio bill does not look at how a  
2 target company is looked upon by the Tax  
3 Department as a subsidiary or an investment  
4 income entity. Basically, therefore, the  
5 Nozzolio bill does not have the comprehensive  
6 coverage of this bill of which I urge passage.

7 ACTING PRESIDENT MEIER:

8 Senator Leichter.

9 SENATOR LEICHTER: If Senator  
10 Goodman will yield.

11 ACTING PRESIDENT MEIER: Senator  
12 Goodman, do you yield for a question?

13 SENATOR GOODMAN: I'm very  
14 pleased to yield to anyone who has a full page  
15 color picture in the New York Times this  
16 morning.

17 SENATOR LEICHTER: Who's a  
18 beatnik. Who's a beatnik.

19 SENATOR GOODMAN: I have no  
20 wish to refer to such a description. It  
21 certainly did not emanate from this quarter.

22 SENATOR LEICHTER: Thank you  
23 very much, Senator Goodman, and thanks for  
24 your explanation, and I do note that your bill  
25 is much broader than Senator Nozzolio's bill.

1 I don't know whether that's a plus or a minus,  
2 but one initial question I have is, this bill  
3 is -- as I see it is retroactive back to  
4 January 1, 1998.

5 Does it thereby cover some  
6 mergers or acquisitions that have occurred  
7 since January 1, 1998?

8 SENATOR GOODMAN: No, it does  
9 not.

10 SENATOR LEICHTER: Well, why -  
11 why is the bill not being made effective as of  
12 immediately or 30 days from now or 60 days  
13 from now?

14 SENATOR GOODMAN: That is a  
15 question which we would have to put to the  
16 Governor's office. I do not know the answer,  
17 Senator.

18 SENATOR LEICHTER: All right.  
19 I appreciate what you say, Senator Goodman,  
20 but I -- I am concerned as I was with Senator  
21 Nozzolio's bill that we're trying to benefit  
22 one or more specific companies, and if we're  
23 selling this bill on the basis, hey, we want  
24 to have this as an incentive, it certainly  
25 doesn't make sense to give it retroactively to

1           somebody who made that merger acquisition  
2           without the incentive, but I will ask the  
3           Governor next time I see him why he did that.

4                         SENATOR GOODMAN:   Your  
5           proboscis seeks always to find a rank odor  
6           emanating from certain of these items, and I  
7           think this one will not have such an odor, at  
8           least I trust that it will not.

9                         SENATOR LEICHTER:   Well, let me  
10          say your bills don't, at least when you've  
11          written them.   Senator, I'm concerned that  
12          while we may be providing these incentives for  
13          mergers and acquisitions, that we're also  
14          providing incentive for foreign corporations,  
15          and they could be foreign not only foreign to  
16          New York State and be other American  
17          corporations but they could be overseas  
18          corporations, to come, acquire New York  
19          corporations, and not having that same  
20          identification with the communities as the  
21          previous owners, be much more likely to move  
22          jobs out of the state of New York or move the  
23          entire enterprise out of the state of New  
24          York.

25                                 Is there any protection in your

1 bill against that?

2 SENATOR GOODMAN: Senator, in  
3 fact, this bill repeals many of the negative  
4 tax consequences of activities which are  
5 designed to undo New York State's relationship  
6 with its existing resident corporations. The  
7 advantage to New York State of this bill is  
8 that repeal of the negative tax consequences  
9 which this bill would accomplish would  
10 discourage parent corporations headquartered  
11 in New York from relocating to other states,  
12 and these other states would not impose  
13 similar negative tax consequences.

14 SENATOR LEICHTER: Well,  
15 Senator -

16 ACTING PRESIDENT MEIER:  
17 Senator Leichter, do you wish Senator Goodman  
18 to continue to yield?

19 SENATOR LEICHTER: Yes, Mr.  
20 President.

21 ACTING PRESIDENT MEIER:  
22 Senator Goodman, do you yield?

23 SENATOR GOODMAN: Yes; yes, I  
24 will, Mr. President.

25 ACTING PRESIDENT MEIER:

1 Senator yields.

2 SENATOR LEICHTER: Senator, I  
3 understand that's rationale that's being put  
4 forward, but I set forth what I believe is a  
5 very realistic hypothesis of foreign companies  
6 coming and buying New York corporations and  
7 moving then jobs and enterprises out of New  
8 York State.

9 Let me ask you this question,  
10 and I asked the same question of Senator  
11 Nozzolio, why not condition the benefits that  
12 you're providing in this bill upon maintaining  
13 and continuing activity in the state of New  
14 York, so yeah, we'll give you these benefits,  
15 but only if you keep the jobs in New York.  
16 Wouldn't that make sense?

17 SENATOR GOODMAN: Well,  
18 Senator, as you know, the Governor has been  
19 undertaking a concerted effort over his first  
20 term to do everything in his power to keep  
21 corporations that are in New York in New York  
22 and to prevent a hemorrhage of corporate  
23 departures, and I think this piece is simply  
24 one piece of a broader strategy which  
25 endeavors to accomplish that.

1                   May I say there are many other  
2 pieces which are certainly equal to or greater  
3 in their importance, such things as the basic  
4 tax structure of the state in general, which  
5 is designed to be a magnet for corporate  
6 retention, various incentives, some of which  
7 you may favor and others of which you may not  
8 that would give preferment to corporations  
9 which create jobs and, in general, I think  
10 this has been a very robust attempt, which has  
11 met with considerable success, not only in  
12 keeping corporations within the state but  
13 attracting corporations from outside the state  
14 to come into New York for purposes of re  
15 location here.

16                   This relates to all sorts of  
17 incentives, including hopefully various labor  
18 market possibilities which are attractive to  
19 them relative to other labor markets, and a  
20 generally economic climate which is good and  
21 growing, and in that effort I think the  
22 Governor, if I may say so, deserves  
23 considerable credit.

24                   SENATOR LEICHTER:   Senator  
25 Goodman, I think it can certainly be reported

1 to the Governor that you've done a stout job  
2 in defending his bill, and I appreciate your  
3 answers. I think you've accepted -

4 SENATOR GOODMAN: (Microphone  
5 inoperative-comment inaudible).

6 SENATOR LEICHTER: O.K.  
7 (Senator Goodman talking over.) Thank you very  
8 much. I appreciate and understand the rhetoric  
9 -- the rubric under which this bill is being  
10 sold, but nobody has given me an answer and I  
11 don't know if anybody here can, why we don't  
12 condition and limit these benefits and credits  
13 that we're giving to maintaining jobs in the  
14 state of New York.

15 Doesn't that make absolutely  
16 good sense to say, Fine, you want to acquire a  
17 New York corporation? We're going to give you  
18 tax benefits. You're going to be able to take  
19 advantage of the tax credits and benefits that  
20 that New York corporation has accumulated, but  
21 only if you continue the operations of that  
22 company in New York State? Why wouldn't we do  
23 that? It seems to make every reasonable good  
24 sense. Senator Goodman says, Well, this is an  
25 effort to keep corporations and jobs in New

1 York State. I maintain that it may have just  
2 the opposite -- the opposite result and,  
3 frankly, this Governor and this administration  
4 have not been very successful in keeping  
5 companies in New York State.

6 In some instances, certainly it  
7 was beyond their power to do so, but what  
8 we're doing by this sort of a job is -- by  
9 this sort of a bill is limiting the revenues  
10 that come to New York State that could be used  
11 in, I think, much more productive ways to make  
12 New York State economically competitive, to  
13 create jobs, to provide education, to do those  
14 things that in the long run are going to  
15 create a much more economically healthy New  
16 York State than we have now.

17 Just remember, this bill has a  
18 cost to it, and I don't think, as I see this  
19 bill, that the cost is worth it, and certainly  
20 not when we fail to put in what can be such a  
21 simple and basic safeguard that we're not  
22 going to give you these credits unless you  
23 keep the jobs in New York State.

24 Senator Goodman, I know it's  
25 not your bill, but I don't think you could

1 disagree with me that putting in that sort of  
2 a condition saying you want the benefits, keep  
3 the jobs in New York, and that ought to be  
4 part of this bill.

5 Without it, I'm not going to  
6 support it.

7 ACTING PRESIDENT MEIER: Read  
8 the last section.

9 THE SECRETARY: Section 20.  
10 This act shall take effect immediately.

11 ACTING PRESIDENT MEIER: Call  
12 the roll.

13 (The Secretary called the  
14 roll. )

15 THE SECRETARY: Ayes 57, nays  
16 three, Senators Leichter, Onorato and Stavisky  
17 recorded in the negative.

18 ACTING PRESIDENT MEIER: The  
19 bill is passed.

20 Senator Marcellino.

21 SENATOR MARCELLINO: Thank you,  
22 Mr. President.

23 There will be an immediate  
24 meeting of the Judiciary Committee in the  
25 Majority Conference Room, Room 332.

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ACTING PRESIDENT MEIER:

Immediate meeting of the Judiciary Committee  
in the Majority Conference Room, Room 332.

Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, at this time can we call up bill  
Calendar Number 1432.

THE SECRETARY: Calendar Number  
1432, by Senator Libous, Senate Print 7714, an  
act to amend the Public Authorities Law, in  
relation to authorizing.

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 60.

ACTING PRESIDENT MEIER: The  
bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Yes,  
Calendar Number 1434, please.

1                   ACTING PRESIDENT MEIER:

2           Secretary will read Calendar 1434.

3                   THE SECRETARY:   Calendar Number  
4           1434, by the Assembly Committee on Rules,  
5           Assembly Print 11151-A, an act to amend the  
6           Insurance Law, in relation to continuing.

7                   ACTING PRESIDENT MEIER:   Read  
8           the last section.

9                   THE SECRETARY:   Section 11.  
10          This act shall take effect June 30.

11                   ACTING PRESIDENT MEIER:   Call  
12          the roll.

13                   (The Secretary called the  
14          roll. )

15                   THE SECRETARY:   Ayes 60.

16                   ACTING PRESIDENT MEIER:   The  
17          bill is passed.

18                   Senator Marcellino.

19                   SENATOR MARCELLINO:   Can we go  
20          back on the controversial calendar and call  
21          the bills in order that are still remaining.

22                   ACTING PRESIDENT MEIER:  
23          Secretary will call the controversial calendar  
24          in regular order starting with Calendar 1385.

25                   THE SECRETARY:   Calendar Number

1 1385, substituted earlier today, by member of  
2 the Assembly Vitaliano, Assembly Print 5534-A,  
3 is an act to amend the Education Law and the  
4 Administrative Code of the city of New York.

5 SENATOR DOLLINGER:

6 Explanation.

7 ACTING PRESIDENT MEIER:

8 Senator Trunzo, an explanation has been  
9 requested by Senator Dollinger.

10 SENATOR TRUNZO: Mr. President,  
11 this bill authorizes the New York State  
12 Teachers' and the New York City Teachers'  
13 Retirement System to provide for accelerated  
14 payments of death benefits which would other  
15 wise be payable to trhe retirement system upon  
16 the death of a member.

17 The member would be entitled to  
18 accelerated death benefits depending upon  
19 diagnosis of a terminal illness defined as a  
20 life expectancy of 12 months or less or a  
21 medical condition requiring extraordinary care  
22 regardless of life expectancy.

23 SENATOR DOLLINGER: On the  
24 bill, Mr. President.

25 ACTING PRESIDENT MEIER:

1 Senator Dollinger, on the bill.

2 SENATOR DOLLINGER: As I -- or  
3 excuse me. If Senator Trunzo will just yield  
4 to one question, so I make sure I understand  
5 it.

6 ACTING PRESIDENT MEIER:  
7 Senator Trunzo, do you yield to a question?

8 SENATOR TRUNZO: Yes.

9 ACTING PRESIDENT MEIER: The  
10 Senator yields.

11 SENATOR DOLLINGER: My  
12 understanding is that the short part of this  
13 bill, the short end of it is that if you need  
14 long-term care you can take accumulated  
15 amounts out of your retirement funds to pay  
16 for long-term care, is that correct?

17 SENATOR TRUNZO: It's -- well,  
18 it says extraordinary care regardless of life  
19 expectancy. I guess it could -- it's not the  
20 long-term care bill which is another bill that  
21 I have which you, you know, you could be  
22 prepaid but I guess it could fall into that  
23 category depending on the extraordinary care  
24 regardless of the condition.

25 In other words, first you have

1 to be determined to be terminally ill in order  
2 to get this benefit, prepayment of the death  
3 benefit.

4 SENATOR DOLLINGER: Through  
5 you, Mr. President, I can just -- if Senator  
6 Trunzo would yield to just one more question.

7 ACTING PRESIDENT MEIER:  
8 Senator Trunzo, do you yield for a question?

9 SENATOR TRUNZO: Yes.

10 ACTING PRESIDENT MEIER:  
11 Senator yields.

12 SENATOR DOLLINGER: The bill  
13 will only allow them to use it if you have a  
14 death illness, a death-impending illness; it  
15 couldn't be used for long-term care.

16 SENATOR TRUNZO: I don't  
17 believe so. Long-term care, unless it is in  
18 the case of, you know, you're going to die so  
19 it takes longer than 12 months regardless of  
20 the illness, so that's where it comes into the  
21 picture. I do have another bill which has  
22 long-term care which you're aware of, but that  
23 bill has not come out yet.

24 SENATOR DOLLINGER: Right.  
25 Again through you, Mr. President, I'm just

1 calling your attention to page 2, line 52  
2 through 54, it says "a medical condition of a  
3 long and continued and indefinite duration,  
4 requiring extraordinary care or treatment,  
5 regardless of life expectancy."

6 Would that include long-term  
7 care?

8 SENATOR TRUNZO: With a serious  
9 illness, not necessarily long-term care  
10 because long-term care doesn't necessarily  
11 mean a serious illness.

12 SENATOR DOLLINGER: O.K. Well,  
13 in reading this bill, Senator Trunzo, one of  
14 the reasons why I stood up to just ask that  
15 question in clarification, is what I thought  
16 the bill would do is because long-term care,  
17 for example dementia, Alzheimer's Disease, any  
18 one of the long-term disabilities would be a  
19 medical condition of a long, continued and in  
20 definite duration and it was my under -- my  
21 hope that, in reading that section along with  
22 this bill, that that would allow someone to  
23 get the benefit for purposes of long-term  
24 care.

25 SENATOR TRUNZO: It could,

1 required extraordinary care.

2 SENATOR DOLLINGER: O.K.

3 Through, Mr. President, that's my hope.

4 SENATOR TRUNZO: I hope so too.

5 SENATOR DOLLINGER: My hope is  
6 -- and just on the bill. I'm going to vote  
7 in favor of this and urge everyone to vote for  
8 it.

9 I think the more that we can do  
10 to allow people to use whatever resources  
11 they've accumulated in their life, whether  
12 it's a retirement benefit or whole life  
13 insurance -- I carry a bill that allows you to  
14 invade your whole life insurance prior to your  
15 death to pay for long-term care, so that we  
16 reduce our dependence on the Medicaid system  
17 as the tool for financing long-term care and I  
18 would just -- I commend this bill.

19 I would only encourage you,  
20 Senator Trunzo, if you came up with similar  
21 language and applied it to all of our pension  
22 systems, not just the teachers' retirement but  
23 our whole entire state pension system, we'd be  
24 in a position where we could take a very good  
25 idea and make it an even better one.

1                   ACTING PRESIDENT MEIER: Read  
2                   the last section.

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

5                   ACTING PRESIDENT MEIER: Call  
6                   the roll.

7                   (The Secretary called the  
8                   roll.)

9                   THE SECRETARY: Ayes 60.  
10                  Excuse me. Ayes 59, nays one, Senator Kuhl  
11                  recorded in the negative.

12                  ACTING PRESIDENT MEIER: The  
13                  bill is passed.

14                  THE SECRETARY: Calendar Number  
15                  1390, by Senator Spano, Senate Print 5573-A,  
16                  an act to amend the General Municipal Law, in  
17                  relation to bureaus of administrative  
18                  adjudication.

19                  SENATOR ONORATO: Explanation.

20                  SENATOR MARCELLINO: Lay it  
21                  aside temporarily.

22                  ACTING PRESIDENT MEIER: Lay  
23                  the bill aside temporarily.

24                  THE SECRETARY: Calendar Number  
25                  1392, by Senator Skelos, Senate Print 6201, an

1 act to amend the Domestic Relations Law and  
2 the Penal Law, in relation to the suspension.

3 ACTING PRESIDENT MEIER: Read  
4 the last section.

5 SENATOR ONORATO: Explanation.

6 SENATOR MARCELLINO: Lay the  
7 bill aside temporarily, Mr. President.

8 ACTING PRESIDENT MEIER: Lay it  
9 aside temporarily.

10 THE SECRETARY: Calendar Number  
11 1412, by Senator Holland, Senate Print 7571,  
12 an act to amend the Education Law, in relation  
13 to extending.

14 SENATOR ONORATO: Explanation.

15 ACTING PRESIDENT MEIER:  
16 Senator Holland, an explanation has been  
17 requested of Calendar Number 1412 by Senator  
18 Onorato.

19 SENATOR HOLLAND: Mr.  
20 President, there are two school districts.  
21 One school district is relatively small and  
22 has a non-existent building aid reimbursement,  
23 and a high school. The second school district  
24 has no high school, a higher building aid  
25 reimbursement.

1           The two school districts have  
2           been working together for 18 years and now  
3           they want to build a high school, so we're  
4           changing a law to say that the district with  
5           the low building aid, Tuxedo, will get some of  
6           the building aid from the higher district and  
7           that the law will be changed to allow them to  
8           sign a contract for 15 years rather than the  
9           law today is two to five years.

10           SENATOR DOLLINGER: Through  
11           you, Mr. President, Senator.

12           ACTING PRESIDENT MEIER:  
13           Senator Dollinger.

14           SENATOR DOLLINGER: Senator, I  
15           was having a small communication -

16           ACTING PRESIDENT MEIER:  
17           Senator Dollinger, would you indulge both me  
18           and, more importantly, the rules and go  
19           through the Chair.

20           Do you wish the Senator to  
21           yield?

22           SENATOR DOLLINGER: I  
23           apologize, Mr. President. I do.

24           ACTING PRESIDENT MEIER:  
25           Senator, do you yield to a question from

1 Senator Dollinger?

2 SENATOR HOLLAND: I do, Mr.

3 President.

4 SENATOR DOLLINGER: Through the

5 President -

6 ACTING PRESIDENT MEIER:

7 Senator yields.

8 SENATOR DOLLINGER: Could you  
9 identify the two school districts that are  
10 involved in this bill?

11 SENATOR HOLLAND: One is Tuxedo  
12 and the other was Greenwood Lake.

13 SENATOR DOLLINGER: I didn't  
14 hear that.

15 SENATOR HOLLAND: Greenwood  
16 Lake.

17 SENATOR DOLLINGER: Thank you,  
18 Mr. President. No objection.

19 ACTING PRESIDENT MEIER: Read  
20 the last section.

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

23 ACTING PRESIDENT MEIER: Call  
24 the roll.

25 (The Secretary called the

1 roll.)

2 THE SECRETARY: Ayes 60.

3 ACTING PRESIDENT MEIER: The  
4 bill is passed.

5 THE SECRETARY: Calendar Number  
6 1414, by Senator Balboni, Senate Print 7614,  
7 an act to permit the sale or lease of Pond  
8 View Homes.

9 ACTING PRESIDENT MEIER: Read  
10 the last section.

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

13 ACTING PRESIDENT MEIER: Call  
14 the roll.

15 (The Secretary called the  
16 roll. )

17 THE SECRETARY: Ayes 60.

18 ACTING PRESIDENT MEIER: The  
19 bill is passed.

20 SENATOR ONORATO: Explanation,  
21 please.

22 ACTING PRESIDENT MEIER:  
23 Senator Onorato, the bill is passed. You'd  
24 have to move for reconsideration, sir.

25 SENATOR ONORATO: Mr.

1 President, I make a motion to reconsider the  
2 vote by which this was taken.

3 ACTING PRESIDENT MEIER: Call  
4 roll on reconsideration.

5 (The Secretary called the roll  
6 on reconsideration. )

7 THE SECRETARY: Ayes 60.

8 SENATOR ONORATO: We're laying  
9 this bill aside for Senator Leichter, and the  
10 Senator is now in Judiciary. This is another  
11 LL bill.

12 SENATOR MARCELLINO: Lay the  
13 bill aside temporarily.

14 ACTING PRESIDENT MEIER: Bill  
15 will be laid aside temporarily.

16 THE SECRETARY: 1415, by  
17 Senator Alesi, Senate Print 7633, an act to  
18 amend the Local Finance Law, in relation to  
19 establishing.

20 ACTING PRESIDENT MEIER: Read  
21 the last section.

22 SENATOR ONORATO: Explanation.

23 ACTING PRESIDENT MEIER:  
24 Senator Alesi, an explanation has been  
25 requested of Calendar 1415 by Senator

1 Onorato.

2 SENATOR ALESI: 1415, O.K. Yes,  
3 Mr. President, this bill establishes a period  
4 of probable usefulness or useful life of 25  
5 years for an above-ground aircraft fuel farm  
6 located at the Greater Rochester International  
7 Airport.

8 SENATOR DOLLINGER: Mr.  
9 President, if Senator Alesi will yield to a  
10 question.

11 ACTING PRESIDENT MEIER:  
12 Senator Alesi, Senator Dollinger requests you  
13 to yield.

14 SENATOR DOLLINGER: Just -

15 SENATOR ALESI: It would be the  
16 first time in six years, Mr. President, but I  
17 consider it a privilege.

18 ACTING PRESIDENT MEIER:  
19 Senator Alesi yields.

20 SENATOR DOLLINGER: Through  
21 you, Mr. President, could you just tell me  
22 why, and I hadn't seen this bill until this  
23 morning. Why -- what is there about this  
24 current useful life period that requires us to  
25 do that? I know it establishes a 25-year

1 period, but what's the current useful life and  
2 why do we need to change it?

3 SENATOR ALESI: Senator, as you  
4 know, in most cases where bonding is necessary  
5 for a project such as these, a useful life has  
6 to be established so that it ties in with the  
7 sale of the bonds, and at the end of this year  
8 the EPA has told the county of Monroe or the  
9 Greater Rochester International Airport that  
10 these fuel tanks have to be in compliance and  
11 the way to make them in compliance is to build  
12 new ones.

13 SENATOR DOLLINGER: Just one  
14 final question, Mr. President.

15 ACTING PRESIDENT MEIER:  
16 Senator Alesi, do you continue to yield?

17 SENATOR ALESI: Yes.

18 ACTING PRESIDENT MEIER:  
19 Senator yields.

20 SENATOR DOLLINGER: How much is  
21 the amount of the bonding that's anticipated  
22 to be done for these?

23 SENATOR ALESI: I don't know  
24 that.

25 SENATOR DOLLINGER: Thank you,

1 Mr. President.

2 ACTING PRESIDENT MEIER: Read  
3 the last section.

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

6 ACTING PRESIDENT MEIER: Call  
7 the roll.

8 (The Secretary called the  
9 roll.)

10 THE SECRETARY: Ayes 60.

11 ACTING PRESIDENT MEIER: The  
12 bill is passed.

13 THE SECRETARY: Calendar Number  
14 1421, by Senator Velella, Senate Print 7653,  
15 an act to amend the Insurance Law, in relation  
16 to continuing.

17 SENATOR ONORATO: Explanation.

18 SENATOR MARCELLINO: Lay it  
19 aside temporarily.

20 ACTING PRESIDENT MEIER: Lay  
21 the bill aside temporarily.

22 THE SECRETARY: Calendar Number  
23 1425, by Senator Alesi, Senate Print 7672, an  
24 act to amend the Personal Property Law, in  
25 relation to the Motor Vehicle Retail Leasing

1 Act.

2 ACTING PRESIDENT MEIER: Read  
3 the last section.

4 THE SECRETARY: Section 7.  
5 This act shall take effect immediately.

6 SENATOR ONORATO: Lay it aside,  
7 please.

8 SENATOR MARCELLINO: Lay the  
9 bill aside temporarily.

10 SENATOR SEWARD: Mr. President.

11 ACTING PRESIDENT MEIER:  
12 Senator Seward.

13 SENATOR SEWARD: Yes, if we  
14 could briefly return to motions.

15 SENATOR MARCELLINO: We'll  
16 request that you go back to motions and  
17 resolutions, Mr. President. Recognize Senator  
18 Seward.

19 ACTING PRESIDENT MEIER: We'll  
20 return to the order of motions and  
21 resolutions.

22 Senator Seward.

23 SENATOR SEWARD: Mr. President,  
24 on behalf of a very distinguished member of  
25 this house, Senator Meier.

1                   ACTING PRESIDENT MEIER: I know  
2                   him.

3                   SENATOR SEWARD: I'm pleased to  
4                   move to amend Senate Bill 6760-A by striking  
5                   out the amendments made on June 12th and  
6                   restoring it to its original print number,  
7                   6760.

8                   ACTING PRESIDENT MEIER: So  
9                   ordered.

10                  SENATOR MARCELLINO: Mr.  
11                  President.

12                  ACTING PRESIDENT MEIER:  
13                  Senator Marcellino.

14                  SENATOR MARCELLINO: May we  
15                  return to reports of standing committees. I  
16                  believe you have a report of the Finance  
17                  Committee at the desk. May it be read?

18                  ACTING PRESIDENT MEIER: We'll  
19                  return to the order of reports of standing  
20                  committees.

21                  The Secretary will read.

22                  THE SECRETARY: Senator  
23                  Stafford, from the Committee on Finance,  
24                  reports the following nomination:

25                  Member of the New York State

1 Olympic Regional Developmental Authority,  
2 Arthur S. Spiegel, of Rouses Point.

3 SENATOR STAFFORD: Move  
4 confirmation, please.

5 ACTING PRESIDENT MEIER: The  
6 question is on the confirmation of Arthur S.  
7 Spiegel as a member of the New York State  
8 Olympic Regional Developmental Authority.

9 All those in favor signify by  
10 saying aye.

11 (Response of "Aye.")

12 Opposed nay.

13 (There was no response. )

14 The nomination is confirmed.  
15 Secretary will read.

16 THE SECRETARY: As members of  
17 the Central New York Regional Transportation  
18 Authority, Stanton W. Bryant, of Auburn;  
19 Vincent A. Cook, of Syracuse; John C. Hession,  
20 of Syracuse; and Vincent A. O'Neil, Esq., of  
21 Syracuse.

22 ACTING PRESIDENT MEIER:  
23 Senator Stafford.

24 SENATOR STAFFORD: Move  
25 confirmation.

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ACTING PRESIDENT MEIER:

Question is on the confirmation of Stanton Bryant, Vincent A. Cook, John C. Hession and Vincent A. O'Neil as members of the Central New York Regional Transportation Authority.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominations are confirmed.

Secretary will read.

THE SECRETARY: As a member of the Rochester-Genesee Regional Transportation Authority, Frank Carpenter, of Rochester.

SENATOR DOLLINGER: Mr. President, just to be heard on that one briefly.

ACTING PRESIDENT MEIER: Let's get the nomination on the floor first.

Senator Stafford.

SENATOR STAFFORD: Move confirmation.

ACTING PRESIDENT MEIER:  
Senator Dollinger.

1                   SENATOR DOLLINGER:  Mr.  
2           President, I don't know Mr. Carpenter.  I  
3           regret that I don't know him, because he's  
4           seeking appointment to the Greater Rochester  
5           Transit Authority, the regional transit  
6           authority.

7                   About 75 percent of the people  
8           who ride on the buses run by RGRTA live in my  
9           district, never heard from Mr. Carpenter,  
10          never contacted me as the member who  
11          represents most of the people that ride on  
12          these buses.

13                   I note in his brief biography  
14          there's not one thing in it that suggests he's  
15          had ever one thing to do with transportation.  
16          I'd point out to my colleagues on the Finance  
17          Committee that wouldn't automatically  
18          disqualify him from serving, but nonetheless,  
19          I think it at least raises a question as to  
20          what background he does have that would  
21          qualify him to be on the RGRTA.

22                   I'd also point out again an  
23          interesting question.  Mr. Carpenter has lived  
24          in Rochester for less than seven years and  
25          he's being appointed to this important

1 commission which runs our transit authority.

2 I'm just disappointed whoever  
3 is in charge of the appointments, whether it's  
4 locally or down on the second floor, they  
5 don't have the courtesy to send to a member  
6 who's intimately affected by an appointment,  
7 the candidate and they don't even ask him to  
8 call him on the phone.

9 I don't know what the members  
10 of this body believe about the courtesy and  
11 respect due to a Senator, but it seems to me a  
12 minimal level -- a minimal level would require  
13 that someone who seeks appointment to a board  
14 or commission that this body has confirmation  
15 power over would at least call the Senator  
16 who's most affected by this decision and  
17 introduce himself, explain his background and  
18 give some information.

19 I would ask all my colleagues  
20 to vote against this appointment to send a  
21 message that this is not the right way to do  
22 these type of appointments in the future.

23 ACTING PRESIDENT MEIER:

24 Question is on the confirmation of Frank  
25 Carpenter as a member of the Rochester-Genesee

1 Regional Transportation Authority.

2 All those in favor signify by  
3 saying aye.

4 (Response of "Aye.")

5 Opposed nay.

6 (Three hands are raised.)

7 The nomination is confirmed.

8 The record will indicate Senator Dollinger's  
9 and Senator Santiago in opposition.

10 Secretary will continue to  
11 read.

12 THE SECRETARY: As a member of  
13 the Ogdensburg Bridge and Port Authority,  
14 Margaret Gladwin McEwen, of Ogdensburg.

15 SENATOR STAFFORD: Move  
16 confirmation, please.

17 ACTING PRESIDENT MEIER:  
18 Question is on the confirmation of Margaret  
19 Gladwin McEwen as a member of the Ogdensburg  
20 Bridge and Port Authority.

21 All those in favor signify by  
22 saying aye.

23 (Response of "Aye.")

24 Opposed nay.

25 (There was no response.)

1 The nominee is confirmed.

2 The Secretary will continue to  
3 read.

4 THE SECRETARY: As a member of  
5 the State Council on the Arts, Noreen Reale  
6 Falcone, of Skaneateles.

7 SENATOR STAFFORD: Move  
8 confirmation, please.

9 ACTING PRESIDENT MEIER:  
10 Question is on the confirmation of Noreen  
11 Reale Falcone as a member of the State Council  
12 on the Arts.

13 All those in favor signify by  
14 saying aye.

15 (Response of "Aye.")

16 Opposed, nay.

17 (There was no response.)

18 The nomination is confirmed.

19 Senator Marcellino, that's all  
20 of the -

21 SENATOR STAFFORD: Move  
22 confirmation, please.

23 SENATOR MARCELLINO: Mr.  
24 President, if we could stand at ease moment  
25 arily because we have to wait for the

1 Judiciary people to come back.

2 ACTING PRESIDENT MEIER: Senate  
3 will stand at ease.

4 SENATOR MARCELLINO: Which I  
5 believe they are almost now.

6 (The Senate stood at ease from  
7 12:17 to 12:25 p.m.)

8 ACTING PRESIDENT KUHL: The  
9 Senate will come to order. Ask the members to  
10 find their places, staff to find their  
11 places.

12 Senator Marcellino.

13 SENATOR MARCELLINO: Mr.  
14 President, may we return to the order of  
15 reading the reports of standing committees.

16 I understand there's a report  
17 of the Judiciary Committee at the desk. I ask  
18 that it be read now.

19 ACTING PRESIDENT KUHL: We'll  
20 return to the order of reports of standing  
21 committees. There is a report of the  
22 Judiciary Committee at the desk. I'll ask the  
23 Secretary to read.

24 THE SECRETARY: Senator Lack,  
25 from the Committee on Judiciary, reports the

1 following nomination:

2 As a Justice of the Supreme  
3 Court for the First Judicial Department, Leona  
4 L. Leo, of New York County.

5 ACTING PRESIDENT KUHL: Chair  
6 recognizes Senator Lack.

7 SENATOR LACK: Mr. President -  
8 I'm sorry Senator Goodman. I'll get to you in  
9 about ten seconds.

10 Mr. President, I rise to move  
11 the nomination of Leona L. Leo as a Justice of  
12 the Supreme Court of the First Judicial  
13 District, on the nomination of the Governor.

14 Ms. Leo's credentials have been  
15 examined by the staff of the Committee, found  
16 certainly in order. She appeared before the  
17 committee earlier this afternoon, was  
18 unanimously moved to the floor, and I'm very  
19 privileged to yield for purposes of a second  
20 to Senator Goodman.

21 ACTING PRESIDENT KUHL: Chair  
22 recognizes Senator Goodman on the nomination.

23 SENATOR GOODMAN: Mr.  
24 President. Mr. President, I deem it a  
25 privilege and a great pleasure and a very high

1 honor indeed, to be able to speak to the  
2 nomination of Ms. Leona L. Leo who is before  
3 us for consideration for appointment to the  
4 Supreme Court.

5                   May I say to you I've known Ms.  
6 Leo for a number of years very well indeed,  
7 and have observed her in action both as a  
8 civic leader and as a member of the very  
9 important staff of the Appellate Division  
10 where, since 1983, she has occupied a  
11 principal position as an appellate court  
12 attorney. Her work has encompassed research  
13 and analysis of questions and issues of civil,  
14 criminal and family law, preparation of  
15 reports and confidential memoranda on appeals  
16 and motions for the justices of the court,  
17 where she has evaluated and has presented  
18 applications for interim relief to the hearing  
19 justices after discussion with counsel.

20                   Her record is an impressive  
21 one. She has received her Juris Doctor degree  
22 from the Brooklyn Law School in 1975 where she  
23 is an Associate Editor of the Law Review, is a  
24 member of the Moot Court Honor Society and  
25 enjoyed a number of other honors that were

1 bestowed upon her. She was also in the Who's  
2 Who among students of American colleges and  
3 universities.

4 She received her Master of Arts  
5 Degree from St. John's in 1965, a Bachelor's  
6 Degree from the Mount St. Vincent School -  
7 College in Riverdale, and then went on to work  
8 as a teacher in the Patchogue-Medford School  
9 District which means that she has sentimental  
10 links to Senators -- several Senators from  
11 Long Island who are in this chamber at the  
12 moment.

13 She also worked for the eminent  
14 law firm of Cohen & Dyckman in Brooklyn from  
15 1975 to 1982, and at that point went on to  
16 various other assignments; and may I say to  
17 you, Mr. President, that from time to time she  
18 has been evaluated by the New York City Bar  
19 Association and found to be highly qualified  
20 and was also endorsed in an earlier run for  
21 this position by the New York Times.

22 This is an individual of the  
23 highest caliber. Her integrity is absolutely  
24 sterling. Her intellectuality is of the very  
25 highest level. She is a person who cares

1 deeply about individual people and individual  
2 problems and will make a sensitive and caring  
3 Justice of the Supreme Court, which is one of  
4 the most powerful judicial positions within  
5 the state of New York and indeed in the  
6 nation.

7 I'd remind you that the Supreme  
8 Court has the power to mete out the highest  
9 forms of penalties in criminal matters and to  
10 deal with the most sensitive and extensive  
11 cases in civil litigation, and thus it's with  
12 a sense of deep confidence and a great deal of  
13 joy that I ask the Senate to unanimously  
14 approve the nominee who is of the highest  
15 caliber and an individual I know will serve us  
16 with great distinction and will honor the  
17 public with the degree of dedication and  
18 involvement in the issues of the day.

19 Mr. President, she is out  
20 standing in every way, and it is with  
21 unreserved enthusiasm that I urge her approval  
22 within the very near future in this chamber.

23 Thank you very much.

24 ACTING PRESIDENT KUHL: Senator  
25 Gold.

1                   SENATOR GOLD: Thank you, Mr.  
2                   President.

3                   I have to correct Senator  
4                   Goodman in one little item. When you say this  
5                   is one of the most powerful positions, right  
6                   now she's a staff person at the Appellate  
7                   Division, and that's power. I know what it is  
8                   to be staff, but I did receive some calls from  
9                   judges and, as I've said on so many occasions,  
10                  when it comes to the judiciary, my admiration  
11                  does go to the Governor. I have had arguments  
12                  with him on other appointments, but he really  
13                  has made an effort, I believe, to elevate the  
14                  caliber of people in the judiciary and  
15                  certainly this appointment goes right along  
16                  with it.

17                  The judges who I've spoken to  
18                  eagerly await this confirmation, so that  
19                  Justice Leo can start to work in the  
20                  courtroom, and I believe that, from my point  
21                  of view as a working lawyer, I want somebody  
22                  who not only has an academic background but  
23                  someone who has compassion, understands what  
24                  litigants go through and what lawyers go  
25                  through, and I find that Justice Leo is a

1 delightful lady that is not only bright but  
2 does understand what the courts are about and  
3 their function in society.

4 So it is with a deep sense of  
5 pride that I would second this nomination.

6 ACTING PRESIDENT KUHL: Is  
7 there any other Senator wishing to speak on  
8 the nomination?

9 (There was no response.)

10 Hearing none, the question is  
11 on the nomination of Leona L. Leo, of New York  
12 County, as a justice of the Supreme Court for  
13 the First Judicial Department. All those in  
14 favor of the nomination signify by saying  
15 aye.

16 (Response of "Aye".)

17 Opposed, nay.

18 (There was no response.)

19 The nominee is unanimously  
20 confirmed.

21 We're very, very pleased to  
22 have Leona Leo with us. Justice Leo, welcome  
23 to the chamber. Congratulations and good  
24 luck.

25 Also, accompanying Justice Leo

1 is her sister and niece, Ginger and Tracy  
2 Cocoman and a cousin Holly Waugh and a friend  
3 Clare Laurine. Welcome also to the chamber.

4 The Secretary will continue to  
5 read.

6 THE SECRETARY: Senator Lack,  
7 from the Committee on Judiciary, reports the  
8 following nomination:

9 As a judge of the Court of  
10 Claims, Daniel Martin, of Huntington.

11 ACTING PRESIDENT KUHL: The  
12 Chair recognizes Senator Lack.

13 SENATOR LACK: Thank you, Mr.  
14 President.

15 I rise again to move the  
16 nomination of Daniel Martin of Huntington, who  
17 has been nominated to the Court of Claims by  
18 the Governor.

19 Dan Martin's background as an  
20 attorney in the town of Huntington has been  
21 thoroughly looked into by the staff of the  
22 Judiciary Committee. Since I also practice in  
23 Huntington, it was interesting to be able to  
24 get to read the comments of fellow  
25 practitioners in the town about my long-time

1 colleague in the practice of law in the town,  
2 Dan Martin.

3 They all unanimously approved  
4 his move to the Court of Claims, had the  
5 highest things to say about his ability to  
6 serve as a judge in that court in either the  
7 civil or criminal terms -- terms of the  
8 court.

9 Dan Martin and I served as  
10 assistant district attorneys in Suffolk County  
11 together back in the early '70s. Recently  
12 he's been the town leader of the town  
13 Republican Party in the town of Huntington,  
14 which is also my hometown.

15 He appeared before the  
16 Committee earlier this afternoon, was  
17 unanimously moved to the floor. He has  
18 received the highest accolades from the  
19 Governor's screening committee to be a judge  
20 of the Court of Claims, and I personally would  
21 like to congratulate Dan and his wife Ellen  
22 and his son, Dan, who, of course, are in our  
23 chambers today but for purposes of a full and  
24 complete biography on Dan Martin and his  
25 attributes as an attorney, Mr. President, I

1 would respectfully yield to Senator  
2 Marcellino.

3 ACTING PRESIDENT KUHL: The  
4 Chair recognizes Senator Marcellino, on the  
5 nomination.

6 SENATOR MARCELLINO: Thank you,  
7 Mr. President.

8 I rise with pleasure to  
9 nominate Dan Martin who has been an old  
10 friend. Since I moved -- since the district  
11 moved into the town of Huntington, about 40  
12 percent of my Senate District includes the  
13 town of Huntington.

14 Dan is the, as was said by my  
15 colleague, Senator Lack, the Republican  
16 leader, and I give him no small amount of  
17 credit for my being elected and re-elected to  
18 this particular position. In spite of that,  
19 our colleagues on the other side will probably  
20 vote for him anyway, but I rise with pride, as  
21 I said earlier.

22 Danny is more than qualified.  
23 He's well qualified. He's got one attribute  
24 that I consider to be an absolute necessity  
25 for someone to be a member of the judiciary

1 and that is humility. He's not afraid to  
2 admit when he is wrong. He is not afraid to  
3 seek advice and to seek counsel from others  
4 and he is not one to put down contrary  
5 opinions. I consider that a laudable  
6 attribute for someone moving into this very  
7 important position.

8 It is a pleasure to second his  
9 nomination. I know he will serve the people  
10 of the state of New York well, and I wish him  
11 well and I wish his family well.

12 Danny, congratulations,  
13 Godspeed and good luck.

14 ACTING PRESIDENT KUHL: Is  
15 there any other Senator wishing to speak on  
16 the nomination?

17 (There was no response.)

18 Hearing none, the question is  
19 on the nomination of Daniel Martin of  
20 Huntington as a judge of the Court of Claims.  
21 All those in favor of the nomination signify  
22 by saying aye.

23 (Response of "Aye".)

24 Opposed, nay.

25 (There was no response.)

1                   The nominee is unanimously  
2 confirmed.

3                   Judge Martin, welcome to the  
4 chamber. Congratulations and good luck.

5                   (Applause)

6                   Also joining Judge Martin are  
7 his wife Ellen and his son Daniel. Perhaps  
8 they would like to stand up so we can say  
9 hello to them. Welcome to the chamber.

10                  (Applause)

11                  The Chair recognizes Senator  
12 Marcellino.

13                  SENATOR MARCELLINO: Mr.  
14 President, may we return to the reading of the  
15 controversial calendar and call up Bill Number  
16 1390, please.

17                  ACTING PRESIDENT KUHL: We'll  
18 return to the controversial calendar. The  
19 Secretary will read Calendar Number 1393 -  
20 excuse me. 1390?

21                  SENATOR MARCELLINO: 1390.

22                  ACTING PRESIDENT KUHL: Thank  
23 you.

24                  THE SECRETARY: Calendar Number  
25 1390, by Senator Spano, Senate Print 5573-A,

1 an act to amend the General Municipal Law, in  
2 relation to bureaus.

3 SENATOR PATERSON: Explanation.

4 SENATOR SPANO: Mr. President.

5 ACTING PRESIDENT KUHL: Senator  
6 Spano, an explanation has been requested by  
7 Senator Dollinger on Calendar Number 1390.

8 SENATOR SPANO: This is a local  
9 bill for the city of Yonkers that will allow  
10 them to create a bureau of administrative  
11 adjudication for certain code and ordinance  
12 violations.

13 The reason they're asking for  
14 this is because the City Court has become  
15 really overburdened with the prosecution of  
16 many of the minor city code and ordinance  
17 violations, such as false alarms and code  
18 enforcement fines and the court would be more  
19 like a hearing process comprised -- this court  
20 would be more like a hearing process comprised  
21 of hearing officers.

22 There's over \$80,000 in code  
23 enforcement fines that are uncollected right  
24 now in the city of Yonkers because the City  
25 Court is overburdened with these type of

1 quality of life issues.

2 The city of Buffalo has a  
3 similar court. Yonkers passed a home rule  
4 message on this and that's why it's before us.

5 ACTING PRESIDENT KUHL: There  
6 is a home rule message at the desk. The  
7 Secretary will read the last section.

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

10 ACTING PRESIDENT KUHL: Call  
11 the roll.

12 (The Secretary called the  
13 roll.)

14 THE SECRETARY: Ayes 60.

15 ACTING PRESIDENT KUHL: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 1392, by Senator Skelos, Senate Print 6201, an  
19 act to amend the Domestic Relations Law and  
20 the Penal Law.

21 SENATOR PATERSON: Explanation.

22 ACTING PRESIDENT KUHL: Senator  
23 Skelos, an explanation of 1392 has been  
24 requested.

25 SENATOR SKELOS: Mr. President,

1       this bill extends the provisions of Chapter  
2       644 of the Laws of 1996 relating to the  
3       suspension or revocation of a firearm license  
4       to matrimonial actions pursuant to the  
5       Domestic Relations Law.

6                    SENATOR DOLLINGER:  Mr.  
7       President, I have -- I'm going to vote in  
8       favor of this bill.  I think on previous  
9       occasions I have voted in favor of this bill.  
10      However, I do have an amendment, Mr.  
11      President, that I would propose, an amendment  
12      that we have brought before this house on  
13      several prior occasions, although I don't  
14      believe in this session.

15                   ACTING PRESIDENT KUHL:  Senator  
16      Dollinger, I appreciate that.  Generally a  
17      member of the house is recognized before  
18      they're allowed to talk.  An explanation has  
19      been requested by Senator Paterson and  
20      normally that would trigger him having the  
21      floor, and so I would just point out to you  
22      that -

23                   SENATOR DOLLINGER:  I'm out of  
24      order, Mr. President.

25                   ACTING PRESIDENT KUHL:  While

1 this is the next to last day of session, you  
2 are just a touch out of order and I would  
3 bring that to your attention.

4 Senator Paterson, did you wish  
5 to continue with the questioning?

6 SENATOR PATERSON: Mr.  
7 President, I thought that the distinguished  
8 Deputy Majority Leader gave me an excellent  
9 explanation, one that is probably -- will take  
10 -- I'll take with me through the summer and  
11 think over from time to time, but certainly I  
12 have no further questions at this time.

13 ACTING PRESIDENT KUHL: Senator  
14 Dollinger.

15 SENATOR DOLLINGER: Thank you,  
16 Mr. President.

17 I -- this was a bill that I  
18 believe we may have considered before, at  
19 least the underlying bill for which this is an  
20 extension, but I have an amendment before,  
21 which I believe has been served, that I would  
22 ask that the reading of the amendment be  
23 waived and that I be heard -- allowed to be  
24 heard on the amendment.

25 SENATOR SKELOS: Mr. President.

1                   ACTING PRESIDENT KUHL: May I  
2                   make just a -- Senator Skelos, why do you  
3                   rise?

4                   SENATOR SKELOS: Would Senator  
5                   Dollinger yield? Could you -- is this the  
6                   assault weapons amendment?

7                   SENATOR DOLLINGER: Yes, it is,  
8                   Mr. President, through you.

9                   SENATOR SKELOS: Mr. President,  
10                  if this bill is amended, most likely at this  
11                  time in the session, there will not be time to  
12                  pass the bill.

13                  If Senator Dollinger's  
14                  amendment proceeds and is passed by the Senate  
15                  chamber and -- I'm going to lay the bill  
16                  aside. It's unfortunate that Senator  
17                  Dollinger wants to politicize this type of  
18                  legislation which is necessary to protect  
19                  women from domestic violence, use of handguns  
20                  in domestic violence. So please lay this bill  
21                  aside.

22                  ACTING PRESIDENT KUHL: At the  
23                  request of the sponsor, the bill is laid  
24                  aside.

25                  SENATOR DOLLINGER: Can I be

1 heard or is the bill -- is it out of order?

2 ACTING PRESIDENT KUHL: The  
3 bill is in control of the sponsor, Senator  
4 Dollinger, and he's requested that it be laid  
5 aside. So the bill will be laid aside. You  
6 may want to talk about this privately with  
7 Senator Skelos about your proposal. The bill  
8 is laid aside.

9 The Secretary will continue to  
10 read the controversial calendar.

11 THE SECRETARY: Calendar Number  
12 1414, by Senator Balboni, Senate Print 7614,  
13 an act to permit the sale or lease.

14 SENATOR MARCELLINO: Mr.  
15 President, lay that bill aside for the day at  
16 the request of the sponsor.

17 ACTING PRESIDENT KUHL: Lay the  
18 bill aside for the day.

19 The Secretary will continue to  
20 read.

21 THE SECRETARY: Calendar Number  
22 1421, by Senator Velella, Senate Print 7653,  
23 an act to amend the Insurance Law.

24 SENATOR PATERSON: Explanation.

25 SENATOR MARCELLINO: Mr.

1 President, we're trying to get Senator Velella  
2 right now. He's at the door. He's moving  
3 towards the door. He's been delayed  
4 momentarily. He is currently leaning towards  
5 the door. Should be passing through the door  
6 momentarily. Somebody closed the door on him  
7 and he is here, sir. Okay.

8 ACTING PRESIDENT KUHL: Senator  
9 Velella, an explanation of Calendar Number  
10 1421 has been requested by the Acting Minority  
11 Leader, Senator Paterson.

12 SENATOR VELELLA: As soon as I  
13 find it, Mr. President. Yes, Mr. President.  
14 I'm sorry I didn't have the file handy. This  
15 is an Insurance Department bill to extend for  
16 three years until June 30th, 2001 the file and  
17 use and other rating provisions to implement  
18 file and use for commercial lines insurance  
19 such as commercial auto insurance,  
20 professional liability and public entities.

21 It is not private auto policy  
22 rating. It is for only commercial use.

23 ACTING PRESIDENT KUHL: Senator  
24 Paterson?

25 SENATOR GOLD: Mr. President.

1                   ACTING PRESIDENT KUHL:  Senator  
2           Gold, why do you rise?

3                   SENATOR GOLD:  Will the Senator  
4           yield to just one question?

5                   SENATOR VELELLA:  Yes.

6                   SENATOR GOLD:  Senator, my only  
7           question is why are we doing an extender with  
8           some of these and not just making it  
9           permanent?  Is there a reason?

10                  SENATOR VELELLA:  The idea is  
11           we're doing it for three years so we can take  
12           a look at the rating system, if it's working  
13           well, if it continues to function well and  
14           then the Legislature will either decide to  
15           make it permanent, decide to make an  
16           alteration and just an opportunity to take a  
17           look in three years how the system is  
18           working.

19                  SENATOR GOLD:  Will the Senator  
20           yield to just one more question?

21                  SENATOR VELELLA:  Sure.

22                  ACTING PRESIDENT KUHL:  The  
23           Senator yields.

24                  SENATOR GOLD:  Senator, when  
25           did we put in this system?  When was it

1 initially put it, the system where it was  
2 extended.

3 SENATOR VELELLA: Probably  
4 since I have been here, I can remember we have  
5 done one or two extenders for two years. So  
6 probably somewhere about four or six years.

7 SENATOR GOLD: Well, Senator,  
8 the last question, if you don't mind, my  
9 understanding, Senator, is that we look at  
10 every law every year, otherwise we could go  
11 out of business. We want to make sure that -

12 SENATOR VELELLA: Job  
13 preservation is an important part of the  
14 business.

15 SENATOR GOLD: I agree with  
16 you. We look at all of the laws to make sure  
17 that they're up to date. I don't know why we  
18 pick one or two and we do it just by  
19 extension. Obviously if we made it permanent  
20 and it was no idea, we could eliminate it.

21 SENATOR VELELLA: Well, you  
22 know, it's a legitimate critique of how we do  
23 business here in the state. However, I think  
24 it's a good opportunity to sort of let us  
25 police it a little more strongly. We might

1       tend not to look at things as in-depth as we  
2       do when an extender comes up and they have to  
3       be renewed. As you know, the financial market  
4       fluctuates very strongly. We're in a down  
5       cycle; we're in an up cycle. Those have  
6       effects on the rates and the ability of people  
7       to pay them. Earnings of companies ought to  
8       be evaluated periodically and if we make it  
9       permanent, some other legislators in the  
10      future, not necessarily the ones that are here  
11      now, might not be as diligent as you are,  
12      Senator Gold, and they might not look at this  
13      as closely.

14                    So we say let's let them look  
15      at it closely by having to act on it in three  
16      years and make an evaluation.

17                    SENATOR GOLD: Thank you.

18                    SENATOR VELELLA: You're  
19      welcome.

20                    ACTING PRESIDENT KUHL: Is  
21      there any other Senator wishing to speak on  
22      this bill?

23                    Senator Gentile.

24                    SENATOR GENTILE: Yes. I  
25      believe there's an amendment at the desk.

1                   ACTING PRESIDENT KUHL:  Senator  
2                   Gentile, there is an amendment at the desk.

3                   SENATOR GENTILE:  I would ask  
4                   that you waive the reading and allow me to  
5                   explain.

6                   ACTING PRESIDENT KUHL:  We will  
7                   waive the reading.  You're now afforded the  
8                   opportunity to explain the amendment.

9                   SENATOR GENTILE:  Thank you,  
10                  Mr. President.

11                  I believe that in extending -  
12                  the opportunity now in extending the auto  
13                  insurance flex rating gives us an obligation  
14                  to acknowledge that the auto insurance rates  
15                  in the state of New York, according to a New  
16                  York State Assembly report and the NYPIRG  
17                  report, are the second highest auto premium  
18                  rates in the nation, and I think we would be  
19                  derelict in our duties if in extending the  
20                  auto flex insurance rating that we did not in  
21                  some way address that issue of auto insurance  
22                  rates in this -- in this state.  As the rates  
23                  -- the auto insurance premiums in the rest of  
24                  this country are coming down, the auto  
25                  insurance rates in New York are going up.

1       Indeed, if our colleagues in New Jersey do  
2       what they speak of and attack their insurance  
3       rates in the state of New Jersey, we in this  
4       state will become the state with the highest  
5       auto insurance premiums in the country, not  
6       the second but the highest, and as auto  
7       premiums are going higher, they are increasing  
8       faster than the justified claims experience in  
9       this state. The claims experience does not  
10      justify the rate at which auto premiums are  
11      rising in this -- in New York and insurance  
12      profits are also increasing here in New York  
13      faster than anywhere in the country.

14                        So, Mr. President, my amendment  
15      would -- to Senator Velella's bill would  
16      attach some consumer-related provisions to  
17      Senator Velella's bill that would help New  
18      Yorkers in dealing through this morass of auto  
19      insurance premiums.

20                        Particularly my amendment, Mr.  
21      President, would create an independent office  
22      of the insurance consumer advocate and the  
23      insurance consumer advocate would be required  
24      to assess the impact of insurance rates, rules  
25      and regulations on auto insurance.

1                   It would also require the  
2                   Superintendent of Insurance to appear -- the  
3                   advocate to appear before the Superintendent  
4                   of Insurance in matters regarding insurance  
5                   rates for the advocate to recommend  
6                   legislation to appear or intervene as a party  
7                   on behalf of consumers in proceedings.

8                   My amendment, Mr. President,  
9                   would also enhance the Insurance Department  
10                  Consumer Information Bureau. The  
11                  Superintendent of Insurance under my amendment  
12                  would be required to maintain the database  
13                  containing auto insurance rate information and  
14                  complaint rankings for all companies licensed  
15                  to do business here in New York and that will  
16                  -- that will allow consumers to access on a  
17                  more regular basis comparison shopping of auto  
18                  insurance premiums.

19                  In addition, my amendment would  
20                  put some teeth into the existing excess profit  
21                  law. We do have an insurance excess profit  
22                  law on the books but it's not enforceable.  
23                  It's not being enforced at this point.

24                  My amendment would require the  
25                  Superintendent of Insurance to, on an annual

1 basis, conduct an investigation or  
2 recalculation of insurer excess profits and to  
3 hold public hearings and report to the  
4 legislator -- the Legislature on this  
5 profitability that the insurance companies are  
6 now recording and it would also require the  
7 Superintendent to hire an independent auditor  
8 to audit the auto insurance profits and report  
9 those findings to this body, but most  
10 important, Mr. President, I think my amendment  
11 does a very interesting thing, that attacks  
12 the auto insurance premiums in this state  
13 immediately and it does that, Mr. President,  
14 by allowing the flex band for adjusting the  
15 rating on insurance companies to decrease. It  
16 allows the decrease in insurance rates to go  
17 down to ten percent. Right now no prior  
18 approval is needed for decreases or increases  
19 in insurance premiums up to seven percent. It  
20 could decrease by seven percent, increase by  
21 seven percent. Within that range, there is no  
22 prior approval needed.

23 I am proposing in my amendment  
24 that we allow decreases to be as much as ten  
25 percent to allow that flexibility to have

1 insurance companies decrease their rates by as  
2 much as ten percent but at the same time  
3 suspend the use of the flex rating for rate  
4 increases -- for any rate increase over a  
5 two-year period and that would require all  
6 increases above the present rates to gain -  
7 to need prior approval.

8 So this will be -- this will be  
9 a challenge to the auto -- to the insurers  
10 that they can decrease their rates up to ten  
11 percent but if they want to increase those  
12 rates, they have to show the need for it by  
13 getting prior approval. This is a -- this is  
14 sort of a spin on the flex system, but it  
15 attacks the insurance premiums now that we're  
16 faced with.

17 And the reason we need this in  
18 19... from the period 1990 to 1996, New York  
19 -- the average auto insurance premiums  
20 increased in New York by 36 percent while the  
21 insurance industry costs went up by 12  
22 percent.

23 In the country -- compared to  
24 the country, countrywide premiums increased 20  
25 percent, close, and the rise in costs for

1 insurance companies was 18 percent. Here we  
2 have a discrepancy in this state of costs  
3 going up by 12 percent for insurers but  
4 premiums going up by 36 percent in this state.

5 In New York the average auto  
6 insurance premium last year or 1996 was \$1113  
7 compared to the national average of \$774.

8 Drivers in my section of Brooklyn, the area  
9 that I represent in Brooklyn, pay an average  
10 of \$3,034 a year in insurance premiums.

11 Outrageous. Absolutely outrageous. And that  
12 is why this amendment is so important, Mr.  
13 President.

14 Indeed, the NYPIRG report found  
15 that insurer profits are higher in New York  
16 State. The profit margins in New York were 60  
17 percent compared to 12 percent nationwide.

18 It's clear that we need to do  
19 some work on auto insurance premiums in this  
20 state. We can adjust and extend the rating  
21 system but at the same time we need to attack  
22 the insurance premiums themselves. Right now  
23 here in this amendment, we can do that and it  
24 would be an appropriate attachment to Senator  
25 Velella's bill.

1                   SENATOR VELELLA: Mr.  
2           President, will the Senator yield to a  
3           question?

4                   ACTING PRESIDENT KUHL:  
5           Senator, do you yield?

6                   SENATOR VELELLA: Senator, the  
7           numbers on which you're basing your statement  
8           that insurance rates are up and that increases  
9           are prevailing, are those the 1996 numbers  
10          that were issued by the Assembly, the  
11          two-year-old numbers?

12                   SENATOR GENTILE: They were the  
13          NYPIRG numbers and New York Assembly reports.

14                   SENATOR VELELLA: Yeah. Those  
15          are two years old. Those are the latest  
16          numbers available.

17                   Senator, if I were to tell you  
18          that this year right now, there are seven rate  
19          applications pending before the Insurance  
20          Department to reduce auto rates and that two  
21          already have been granted and that they exceed  
22          the numbers of the flex rating, would that  
23          change your mind as to the status that we're  
24          in right now that insurance companies are  
25          increasing premiums rather than decreasing

1 premiums?

2 SENATOR GENTILE: Well, I  
3 think, Senator, it's very interesting that  
4 reductions -- applications for reductions of  
5 this type come subsequent to reports from  
6 NYPIRG and the Assembly.

7 SENATOR VELELLA: If they -  
8 would you yield to another question. If the  
9 reductions were filed before the report, would  
10 that change your mind?

11 SENATOR GENTILE: Well, the  
12 fact is they were filed after the report,  
13 Senator, and -

14 SENATOR VELELLA: I'm asking a  
15 hypothetical question.

16 ACTING PRESIDENT KUHL:  
17 Gentlemen, gentlemen, let me interject here.  
18 I know in spirited debate this time of the  
19 year is always a lot of fun and it's certainly  
20 thrilling for those of us who are sitting and  
21 listening, but if you could go through the  
22 Chair in accordance with the rules, it would  
23 be most appreciated.

24 SENATOR VELELLA: Will the  
25 Senator yield to a question? I stand

1 corrected.

2 ACTING PRESIDENT KUHL: Do you  
3 yield to another question?

4 SENATOR GENTILE: Yes.

5 ACTING PRESIDENT KUHL: The  
6 Senator yields.

7 SENATOR VELELLA: Listen  
8 carefully. If I'm telling you those  
9 applications were in before the Assembly  
10 report, before the NYPIRG report and are in  
11 the process of being granted, seven  
12 applications before the reports, two already  
13 granted before the reports, would that change  
14 your thinking about where rates are going in  
15 New York State?

16 SENATOR GENTILE: Well, as I  
17 say to you -

18 SENATOR VELELLA: Simple. Yes  
19 or no.

20 SENATOR GENTILE: No, no, no.  
21 I believe I have the opportunity to respond to  
22 you, Senator, and I ask you to listen clearly  
23 too, and I think that the fact that rates are  
24 coming down around the country are a good  
25 thing and certainly by this amendment where we

1 would not allow rates to go higher but we  
2 would allow rates to go lower without prior  
3 approval is also codifying what we want to see  
4 happen in this state. We will now codify by  
5 statute what we want to see happen in this  
6 amendment by allowing rates to go down, not  
7 allowing rates to go up and, frankly, as the  
8 numbers show, the rates are going down faster  
9 everywhere else in the country except New York  
10 State.

11 So I think -- I think the word  
12 has gone out to the insurance companies. We  
13 now -- and what I hope to do by this amendment  
14 is to codify that. They can go down by ten  
15 percent. They cannot go up with prior  
16 approval.

17 SENATOR VELELLA: Will the  
18 Senator yield to another question?

19 SENATOR GENTILE: Yes.

20 ACTING PRESIDENT KUHL:  
21 Senator, do you yield?

22 SENATOR VELELLA: Are the  
23 numbers you're using when you say that rates  
24 are going down all around the country  
25 two-year-old figures also, the same thing like

1 you're using here in New York or are they  
2 current figures?

3 SENATOR GENTILE: My  
4 information, Senator, is that the 1997 numbers  
5 show less than one percent difference in the  
6 1996 numbers for New York State and that  
7 brings me back to my point that the rates are  
8 going down faster everywhere else but the  
9 state of New York.

10 SENATOR VELELLA: In 1996?

11 SENATOR GENTILE: I'm saying to  
12 you, Senator, that the numbers in 1997 for New  
13 York show only a one percent difference.

14 SENATOR VELELLA: Between  
15 what? One percent difference.

16 SENATOR GENTILE: 1996.

17 SENATOR VELELLA: Between which  
18 states?

19 SENATOR GENTILE: New York.

20 SENATOR VELELLA: Which state?

21 SENATOR GENTILE: What I am  
22 saying to you, Senator, between 1996 and 1997,  
23 the information that I have is that the  
24 numbers for New York State are only one  
25 percent difference, which indicates to me that

1 the rates are going down faster everywhere  
2 else but New York State.

3 SENATOR VELELLA: Will the  
4 Senator yield to another question?

5 ACTING PRESIDENT KUHL:  
6 Senator, do you continue to yield?

7 SENATOR GENTILE: I will yield.

8 SENATOR VELELLA: If you had  
9 this privileged information since 1997, why  
10 would you cite to the Senate the statistics of  
11 1996? If you have some new numbers, they  
12 ought to be shared because my understanding is  
13 that '97 and '98, we are leading the way and  
14 Jersey, which did a 15 percent reduction,  
15 followed our lead and copied our law to try  
16 and bring rates down in New Jersey.

17 So, I don't know, if you have  
18 these numbers from '97, I would be happy to  
19 take look at these because you're probably  
20 going to do this amendment in the next day or  
21 two on the right bill. This is a commercial  
22 bill. We have a rate bill coming up for  
23 private auto, and I don't want to raise the  
24 technical objections so we can get this over  
25 with now, but you'll probably bring it up

1 again when we do the bill that should be  
2 amended.

3 Why wouldn't you give us the  
4 numbers that you had, the most current numbers  
5 in 1997? Why would you use the old numbers?

6 SENATOR GENTILE: Senator, if I  
7 might, I think we're splitting hairs here, and  
8 I think the real issue that we're all trying  
9 to get to is the fact that the rates in New  
10 York State have been too high and, Senator, I  
11 think you agree with that. I don't think you  
12 would take an adversarial position or an  
13 adverse position on that one. The rates in  
14 this state have been too high.

15 This amendment codifies what we  
16 have been trying to do, to allow the rates to  
17 go down but requiring approval on any rate  
18 increases, and so whatever report or numbers  
19 you're talking about, I think we're splitting  
20 hairs between 1996 and 1997.

21 The fact remains that New York  
22 State has done an abysmal job up 'til now in  
23 getting the rates down. This amendment and  
24 your extension will help in that path.

25 SENATOR VELELLA: Would he

1 yield for one final question?

2 ACTING PRESIDENT KUHL: Senator  
3 Gentile.

4 SENATOR GENTILE: One final  
5 question.

6 ACTING PRESIDENT KUHL: The  
7 Senator yields.

8 SENATOR VELELLA: Senator,  
9 would you just briefly explain to me why you  
10 feel your amendments on the managed care issue  
11 are going to have this dynamic impact and what  
12 it is on the managed care issues that you're  
13 changing for New Yorkers that's not the law  
14 now in your amendment?

15 SENATOR GENTILE: Well, first  
16 of all, by creating an insurance consumer  
17 advocate will have some -

18 SENATOR VELELLA: Mr.  
19 President, point of order. If you don't want  
20 to answer the question, don't answer the  
21 question. The question is what are you doing  
22 with managed care, not consumer advocate.

23 SENATOR GENTILE: You're asking  
24 me about this amendment.

25 SENATOR VELELLA: Managed care.

1                   SENATOR GENTILE: I'm asking  
2                   you about this amendment. What I'm saying to  
3                   you is this amendment has several parts to  
4                   it. I don't know if you read this amendment,  
5                   Senator, but it has -- in addition -- in  
6                   addition to the flex rate, it creates a  
7                   consumer advocate in the Insurance  
8                   Department. The Superintendent of Insurance  
9                   is directed to create a consumer advocate. So  
10                  that is something that will add to the  
11                  protection for the consumer.

12                   It creates the -- it creates  
13                  the teeth in the excess profit law that we  
14                  don't have now. There's no enforcement of it  
15                  and in addition creates the flex band for the  
16                  decrease but not the increase in insurance  
17                  rates.

18                   So, therefore, Senator, it does  
19                  add additional protections and drives the  
20                  rates in the way we want them to go.

21                   SENATOR VELELLA: I have to ask  
22                  another question. Maybe I can try another  
23                  way. Will you yield for one more?

24                   ACTING PRESIDENT KUHL: Senator  
25                  Gentile, do you continue to yield?

1                   SENATOR GENTILE: Try again.

2                   ACTING PRESIDENT KUHL: The  
3                   Senator continues to yield.

4                   SENATOR VELELLA: I understand  
5                   flex rating. I understand consumer advocate.  
6                   I understand all the other elements. I'll try  
7                   and make it simple. What are you doing in  
8                   managed care that's going to save the consumer  
9                   money? Explain to me what the difference is  
10                  that you're talking about that you're going to  
11                  save money for the ratepayers by your changes  
12                  in managed care? I don't see them here. I  
13                  would like to see. Maybe I'm not reading it  
14                  correctly. What are you changing?

15                  SENATOR GENTILE: Well, if  
16                  you're saying what are we changing, we're  
17                  changing the flex rating, for example. We're  
18                  not allowing -- in this amendment the rating  
19                  is not allowed to increase. It can be  
20                  decreased by ten percent, not allowed to  
21                  increase and there in and of itself, Senator,  
22                  that's one aspect of this -- of this amendment  
23                  and in and of itself, that will save money,  
24                  will send the message to the insurance  
25                  companies that this is the way this

1 Legislature, this state wants to go. It  
2 allows them to reduce it by ten percent.

3 SENATOR VELELLA: Thank you,  
4 Senator.

5 On the bill, Mr. President.

6 ACTING PRESIDENT KUHL: On the  
7 bill or on amendment, Senator?

8 SENATOR VELELLA: On the  
9 amendment. I'm sorry.

10 ACTING PRESIDENT KUHL: Senator  
11 Velella, on the amendment.

12 SENATOR VELELLA: Mr.  
13 President, while this amendment, while it  
14 sounds great, it will do great things for a  
15 press release, is first of all amending the  
16 wrong bill. It deals with commercial  
17 insurance and we'll have the auto bill and you  
18 probably will see this again, but the sponsor  
19 doesn't even know what's in the bill.

20 He's talking about two-year-old  
21 figures. He's talking about managed care  
22 which he can't explain. He talks about flex  
23 rating of ten percent and seven percent, which  
24 is already the law. We can do this.  
25 Companies can reduce premiums or increase

1 premiums as much as they want. This is not  
2 just a battery of ideas that we say you just  
3 flex rate and there's no justification. You  
4 file an increase or a decrease. All these  
5 numbers have to be justified. If it's more  
6 than seven percent, if it's ten percent, that  
7 has to be justified.

8 So this is a lot of whitewash,  
9 a lot of publicity, a lot of rhetoric. It  
10 accomplishes nothing. The sponsor can't tell  
11 us what he's doing with managed care to let  
12 this bill -- or this amendment have any effect  
13 on the rates.

14 It sounds great, the old  
15 cliches. Let's appoint a consumer advocate.  
16 We'll have a big office with staff, with a lot  
17 of people in it and he'll save 300 million.  
18 He'll save 600 million. Fictitious numbers.  
19 They are not going to save anything.

20 That is why New Jersey copied  
21 the New York State laws. New Jersey copied  
22 our laws to get a 15 percent reduction in  
23 insurance rates for their auto users. They  
24 didn't copy another state. They copied New  
25 York because we have been doing the job.

1 Sure, auto insurance rates are high and sure  
2 we're going to have to deal with fraud. That  
3 is probably one of the bigger issue.

4 We're going to deal with a  
5 couple of other issues too and we need to fix  
6 them, and I agree with you. We probably are  
7 paying too much in the city of New York, but  
8 let me tell you, this amendment is nothing  
9 more than political rhetoric. The sponsor  
10 doesn't even know what's in it.

11 I think we ought to soundly  
12 defeat it.

13 ACTING PRESIDENT KUHL: Is  
14 there any other Senator wishing to speak on  
15 the amendment?

16 (There was no response.)

17 The question is on the  
18 amendment. All those in favor signify by  
19 saying aye.

20 SENATOR PATERSON: Party vote  
21 in the affirmative.

22 ACTING PRESIDENT KUHL: The  
23 Secretary will call the roll.

24 (The Secretary called the  
25 roll.)

1                   ACTING PRESIDENT KUHL: Record  
2                   the party line vote.  
3                   THE SECRETARY: Ayes 25, nays  
4                   35, party vote.  
5                   ACTING PRESIDENT KUHL: The  
6                   amendment is lost.  
7                   On the bill.  
8                   SENATOR HOLLAND: Read the last  
9                   section.  
10                  ACTING PRESIDENT KUHL: The  
11                  Secretary will read the last section.  
12                  THE SECRETARY: Section 6.  
13                  This act shall take effect immediately.  
14                  ACTING PRESIDENT KUHL: Call  
15                  the roll.  
16                  (The Secretary called the  
17                  roll.)  
18                  THE SECRETARY: Ayes 60.  
19                  ACTING PRESIDENT KUHL: The  
20                  bill is passed.  
21                  Senator Holland.  
22                  SENATOR HOLLAND: Would you do  
23                  Senator Alesi's bill.  
24                  ACTING PRESIDENT KUHL: The  
25                  Secretary will continue to read the

1 controversial calendar.

2 THE SECRETARY: Calendar Number  
3 1425, by Senator Alesi, Senate Print 7672, an  
4 act to amend the Personal Property Law, in  
5 relation to the Motor Vehicle Retail Leasing  
6 Act.

7 ACTING PRESIDENT KUHL: Senator  
8 Paterson, why do you rise?

9 SENATOR PATERSON: Mr.  
10 President, may we have an explanation from  
11 Senator Alesi on that bill.

12 ACTING PRESIDENT KUHL: Senator  
13 Alesi, an explanation of Calendar Number 1425  
14 has been requested by Senator Paterson, the  
15 Acting Minority Leader.

16 SENATOR ALESI: Thank you, Mr.  
17 President.

18 This bill simply harmonizes  
19 language between federal regulations and state  
20 regulations so as to provide less confusion  
21 for those people who are leasing vehicles. It  
22 is a consumer protection bill. It is  
23 supported by car dealers as well as consumer  
24 groups as well as the Attorney General's  
25 office.

1                   ACTING PRESIDENT KUHL:  Senator  
2           Paterson.

3                   SENATOR PATERSON:  Thank you,  
4           Mr. President.

5                   ACTING PRESIDENT KUHL:  The  
6           Secretary will read the last section.

7                   THE SECRETARY:  Section 7.  
8           This act shall take effect immediately.

9                   ACTING PRESIDENT KUHL:  Call  
10          the roll.

11                   (The Secretary called the  
12          roll.)

13                   THE SECRETARY:  Ayes 60.

14                   ACTING PRESIDENT KUHL:  The  
15          bill is passed.

16                   Senator Holland.

17                   SENATOR HOLLAND:  Mr.  
18          President, there will be a Rules Committee  
19          meeting in Room 332 at 1:15.

20                   ACTING PRESIDENT KUHL:  There  
21          will be almost an immediate Rules Committee  
22          meeting in Room 332, the Majority Conference  
23          Room, at 1:15.  A Rules Committee meeting in  
24          the Majority Conference Room, Room 332, at  
25          1:15.

1 Senator Holland.

2 SENATOR HOLLAND: Mr.

3 President, can we return to the reports of  
4 standing committees and do the Finance  
5 Committee report.

6 ACTING PRESIDENT KUHL: We'll  
7 return to the reports of standing committees.

8 I'll ask the Secretary to  
9 continue to read the report of the Finance  
10 Committee which is at the desk.

11 THE SECRETARY: Senator  
12 Stafford, from the Committee on Finance,  
13 reports the following nomination:

14 As a member of the Board of  
15 Trustees of the City University of New York:  
16 Kathleen M. Pesile, of Staten Island.

17 ACTING PRESIDENT KUHL: Senator  
18 Santiago, on the nomination.

19 SENATOR SANTIAGO: Yes, Mr.  
20 President, to explain my vote.

21 ACTING PRESIDENT KUHL: Do you  
22 want to just explain your vote, Senator  
23 Santiago, or would you like to speak on the  
24 nomination.

25 SENATOR SANTIAGO: Yes. Can I

1 explain my vote?

2 ACTING PRESIDENT KUHL: As soon  
3 as we get to a roll call. Any other member  
4 wishing to speak on the nomination?

5 Senator Stavisky.

6 SENATOR STAVISKY: May I remain  
7 seated, Mr. President?

8 ACTING PRESIDENT KUHL:  
9 Certainly. Certainly, Senator.

10 SENATOR SANTIAGO: I will not  
11 be supporting this -- this nomination. This  
12 morning at both the Higher Education Committee  
13 and at the Finance Committee meeting the  
14 nominee did not respond correctly to the  
15 question about remedial education.

16 It's probably the most  
17 important question that in New York City, the  
18 CUNY system, probably the most difficult plan  
19 that has ever had to be designed and it's  
20 probably the most controversial plan that  
21 anyone has had to design for the city of New  
22 York.

23 I think that anyone who reads  
24 the New York Times, as the nominee said that  
25 she read, would have read the proposed plan

1 and the adopted plan. So I expected that at a  
2 minimum she would have an opinion on the plan  
3 because that plan affects all the children of  
4 the city of New York and particularly it  
5 affects the population that I represent and  
6 people like myself, people of color, black  
7 people, Puerto Rican people, minority people  
8 and immigrants.

9 CUNY is now a system that it  
10 appears to me is primarily made up of minority  
11 students, people like myself. It was very,  
12 very difficult to listen to her and to hear  
13 her say that she was going to study and to  
14 become familiar with the issues that are  
15 affecting the city of New York and the  
16 children of New York City because those  
17 children are our children, and it appeared to  
18 me -- and I apologize in advance if it's  
19 disrespectful, but it appeared to me that she  
20 was going to study the problem of remediation,  
21 whether the plan was a good plan or not a good  
22 plan when it's already in effect and she was  
23 going to do that on the backs of black, Puerto  
24 Rican and Latino and minority students.  
25 That's totally unacceptable.

1 I understand that a member -- a  
2 person who is going to be appointed -- I  
3 understand clearly that a person who is going  
4 to be appointed doesn't have to know the full  
5 range of issues that impact that committee. I  
6 understand that. I accept that, but this is  
7 probably the only issue that is controversial  
8 and is really important.

9 She didn't come prepared to  
10 address that issue and she should have  
11 expected -- I have to assume that she must  
12 have looked at who sat on that committee, at  
13 the Higher Education Committee, and she must  
14 have seen that a Puerto Rican from Brooklyn  
15 sat on that committee and that I sit on it  
16 proudly and that I sit on it on behalf of all  
17 the children of the city of New York and the  
18 state of New York.

19 So it was very disappointing.  
20 I really don't think she had the knowledge  
21 base on the most important question affecting  
22 our community, and I really would appreciate  
23 it if she would study the issue, and I will  
24 not support it again because I also don't  
25 think she understands that it's not an issue

1 of quality education. It's an issue of access  
2 to education and what we have always  
3 requested, all of us, minority students,  
4 minority people like myself, we've never asked  
5 to change standards. It's not a standards  
6 question. It has nothing to do with  
7 excellence, but it has everything to do that I  
8 want the opportunity to fail and if you deny  
9 me the opportunity to fail, I will fight you  
10 every step of the way and, as you well know, I  
11 really stand up and I feel very strongly about  
12 this.

13 You cannot deny people the  
14 right to an education and this is what this  
15 plan means and for her not to have an opinion,  
16 even if we disagreed, even if we disagreed,  
17 that was acceptable. What was not acceptable  
18 is lack of knowledge, and she didn't know what  
19 the issue was at all.

20 Thank you, Mr. President.

21 ACTING PRESIDENT KUHL: The  
22 Chair recognizes Senator Marchi.

23 SENATOR MARCHI: Mr. President,  
24 we had a very productive meeting this morning  
25 with Kathleen Pesile and she was most

1 responsive and most effective in addressing  
2 all of the myriad issues that confront a  
3 nominee.

4 She has a unique background  
5 that I think is not matched, or if it is  
6 matched, it is certainly not inferior to  
7 anybody on that board that serves now.

8 As a matter of fact, I think  
9 it's a very enviable array of experiences  
10 taken in their aggregate for someone of her  
11 stature to become part of a collegial body,  
12 making important decisions that affect  
13 millions of young men and women who are  
14 seeking higher education to advance themselves  
15 and to also participate in the crying needs  
16 that New York City needs for people with  
17 higher educational standards.

18 She addressed the fact that  
19 certainly we should have from the City  
20 University the satisfaction of knowing that  
21 their diploma, their degree, is not going to  
22 be undermined or diluted because it will  
23 contain within itself the mastery of subject  
24 matter and the mastery of people who will be  
25 interested in utilizing their services.

1                   She was born in a minority  
2                   background. She was on welfare, the family.  
3                   She was in public housing at the time, fully  
4                   aware and fully sensitive to the needs of the  
5                   total population to have that opportunity  
6                   and -

7                   SENATOR GOLD: Mr. President.  
8                   Mr. President.

9                   ACTING PRESIDENT KUHL: Senator  
10                  Gold, why do you rise?

11                  SENATOR GOLD: Mr. President, I  
12                  don't mean to interrupt my distinguished  
13                  colleague, but I've heard a rumor that perhaps  
14                  there was an indication that there might be a  
15                  Rules meeting called around 1:15. Since there  
16                  are members on Rules who want to be involved  
17                  in this, I would just urge that perhaps while  
18                  we're debating this, the powers that be could  
19                  hold the Rules Committee meeting. Perhaps you  
20                  can communicate that. I would be very  
21                  grateful.

22                  Senator Marchi, I apologize for  
23                  that.

24                  SENATOR MARCHI: Thank you,  
25                  Senator.

1                   ACTING PRESIDENT KUHL:  Senator  
2           Marchi.

3                   SENATOR MARCHI:  So these are  
4           very important considerations that cannot be  
5           taken lightly and they were not taken lightly  
6           by the members who participated in the Finance  
7           Committee meeting.

8                   The information and questions  
9           were elicited from a number of members, both  
10          sides of the aisle, all of them, in their  
11          aggregate, and I communicated this to the  
12          nominee, contributed to things that she ought  
13          to be hearing and to give her a broader  
14          vision, as wide as this -- as she has now, of  
15          the problems that we'll be facing.

16                  Now, let me just review very  
17          briefly Kathleen Pesile's background.  She's a  
18          resident of my county and she's an adjunct  
19          professor.  She's had that experience, but let  
20          me lead up to that.  She has been head of this  
21          financial group, Pesile Financial Group.  She  
22          has been a financial consultant, International  
23          Banking Program of the American Bankers  
24          Association.  She has been vice-president of  
25          Global Markets and Mergers and Acquisitions

1 for J.P. Morgan & Company. She has been  
2 Capital Cities/ABC-Securities Data Division  
3 vice-president.

4 She has an impressive  
5 background academically. Graduated summa cum  
6 laude from Staten Island College, went to  
7 Baruch and received her Master's with a magna  
8 cum laude characterization of her work and  
9 academic work there, and she's a doctoral  
10 candidate in international affairs at New York  
11 University.

12 I might point out that in her  
13 service with J.P. Morgan, she had traveled  
14 around 43 different countries and has an  
15 excellent -- has an excellent background of  
16 international dimensions.

17 So these are experiences that  
18 are very, very valid -- one who came through  
19 the system, one who professed in our presence  
20 that had it not been for the opportunities  
21 that she enjoyed at the City University, at  
22 Baruch, the sum total of this experience  
23 having an impact that certainly led her to  
24 exercise important responsibilities.

25 As an adjunct professor, I know

1 for a fact that she has helped students out of  
2 time, her own time, to bridge gaps that she  
3 has helped student graduates from the City  
4 University in preparing resumes, to maximize  
5 the strengths that they were presenting with  
6 their degree. This all adds up to a  
7 tremendous interest and concern with the  
8 results and the effect that it has on the  
9 nominee.

10 Now, the questions that were  
11 asked and that produced at least one comment,  
12 maybe more, were all advanced very decorously  
13 and with the greatest sincerity by people who  
14 were for and against and it's -- she raised  
15 the question, Mr. President, that some issues  
16 should stand on a full record, not on a  
17 newspaper article, not on questions that might  
18 be asked or volunteered but by interaction in  
19 a governing board, and this is very, very  
20 important. Absent that, you don't have an  
21 informed judgment. You don't have a judgment  
22 that's going to be influencing the total  
23 thinking of that body. She has these factors  
24 working in her favor. She has the respect of  
25 faculty. She has the respect of students.

1 She has the respect of the total community.

2 Questions were made about  
3 knowing what the facts are and how the  
4 response should be. I brought out an argument  
5 that one of our governors, Governor Nelson  
6 Rockefeller, who did -- was a tremendous  
7 Governor, maybe one of the greatest who ever  
8 lived -- but had made a promise that there  
9 would be no new taxes. I was challenged on  
10 that and I said I would not support it until I  
11 saw a budget and it would be wrong to  
12 prejudge, but it turned out that the following  
13 year we didn't have proposals for new taxes  
14 but we did have proposals for a dramatic  
15 increase in fees that exceeded any increase in  
16 taxes.

17 I did close my remarks in  
18 committee with the example of Edmond Burke.  
19 Edmond Burke said that you owe your industry  
20 and judgment to the people that you're  
21 representing and that you -- you render them a  
22 distinct disservice if you subject that to any  
23 other consideration, and I think that's a good  
24 maxim, Mr. President. I think it's a  
25 principle that's shared by Kathleen Pesile

1 simply because she has the intelligence and  
2 the experience necessary to make a  
3 difference. Her presence will make a  
4 difference and will enrich that body at a time  
5 when the times are difficult.

6 So I think, Mr. President, we  
7 have an excellent candidate to consider. Her  
8 interests are not just academic. They're not  
9 just economic, academic, social. They're also  
10 cultural. A member of the board of directors  
11 of the Staten Island Symphony, member of other  
12 organizations that are in her -

13 ACTING PRESIDENT KUHL: Senator  
14 Marchi.

15 SENATOR MARCHI: -- in her  
16 recitation.

17 ACTING PRESIDENT KUHL: Senator  
18 Marchi.

19 SENATOR MARCHI: Yes.

20 ACTING PRESIDENT KUHL: May I  
21 interrupt you?

22 Senator Gold, for the benefit  
23 -- a response to your request and also to all  
24 of the members, I have been informed by the  
25 Majority Leader that the Rules Committee will

1 be held until after this confirmation debate  
2 is concluded.

3 SENATOR GOLD: Thank you so  
4 much.

5 ACTING PRESIDENT KUHL: In an  
6 effort to try to cooperate and facilitate the  
7 end of session. Certainly you recognize  
8 that.

9 Thank you for indulging the  
10 interruption, Senator Marchi.

11 SENATOR MARCHI: Thank you, Mr.  
12 President.

13 So I recommend -- I don't take  
14 my words lightly here on the floor. I voted  
15 for measures that were not generally favorable  
16 -- favored by a majority of the members.  
17 I've tried to exercise that responsibility  
18 seriously, but this is not a difficult  
19 decision. This is an easy lift because of the  
20 tremendous and superb qualities that she  
21 brings to her proposed nomination.

22 So with the greatest respect to  
23 the members who had questions that deserved  
24 some answers, I believe that response was  
25 earnest, sincere and commendable. She said

1 I'll be willing to come back and tell you  
2 every jot and tittle of my position on any  
3 number of issues that demand that kind of  
4 inquiry and thank God she has it.

5 She is an individual that can  
6 deliver that kind of interest, that kind of  
7 concern with the objective -- stated objective  
8 of maximizing opportunity in the city of New  
9 York and those others who come into the City  
10 University, to give them the greatest  
11 opportunity possible in achieving their  
12 objectives academically.

13 So, Mr. President, I don't  
14 think I've ever been prouder of a nomination  
15 of this nature than I have of this one and I  
16 think it's been a very good nomination. I  
17 think that she brings those qualities in a  
18 rich array no matter what facet, a family  
19 woman, all of the qualities that I think would  
20 endear us to someone who's highly desirable as  
21 a member of the CUNY board.

22 So, Mr. President, I move the  
23 confirmation of this nomination and trust and  
24 hope that it will receive your commendation  
25 and your support.

1 SENATOR GOLD: Mr. President.

2 ACTING PRESIDENT KUHL: Senator  
3 Gold, why do you rise?

4 SENATOR GOLD: Seeking your  
5 attention to speak when it's my turn.

6 ACTING PRESIDENT KUHL: We have  
7 a list going, Senator Gold.

8 SENATOR GOLD: I thought I was  
9 on it.

10 ACTING PRESIDENT KUHL: There  
11 are several members ahead of you. Senator  
12 Stavisky is next.

13 Senator Stavisky on the  
14 nomination. Certainly, sir, you may remain  
15 seated.

16 SENATOR STAVISKY: I attended  
17 the meeting of the Higher Education Committee  
18 and as the ranking Minority member of that  
19 committee, I want to share with you my  
20 perception of the candidate.

21 We are not gauging anyone who  
22 is unfamiliar with the issue. We are  
23 responding to a request by the Governor to  
24 have an appointee who agrees with his position  
25 on affirmative action and on access to the

1 higher education community.

2 I believe in standards. I am a  
3 product of City College at a time when  
4 standards were exceptionally high, when  
5 members of government, when people who  
6 excelled in education, in business, in labor  
7 were in attendance at that institution and  
8 there were more Ph.D.s from City College and  
9 the other senior colleges than any institution  
10 in the country could produce.

11 There were members of the Nobel  
12 laureates, and I believe that it is a proud  
13 tradition which should be respected.  
14 Nevertheless, we are not qualifying her on the  
15 basis of her affiliations, on the basis of her  
16 background in finance, which admittedly is  
17 exemplary, or in business. We are dealing  
18 with a candidate who will have to vote on the  
19 issues of access.

20 I believe that there will be a  
21 chilling effect on access if we go along with  
22 the position taken by the CUNY trustees and we  
23 asked her, give us your reaction to the  
24 proposal to deny any remediation at the senior  
25 colleges and she gave us the conclusion that

1 she could not judge at this time.

2 Why do we have to judge at this  
3 time someone who has no opinion on access, on  
4 affordability, on all of the issues that make  
5 attendance at CUNY so important?

6 If we do not have clear answers  
7 from her as to what her views are, forget the  
8 views of anyone else, what her views are on  
9 the question of remediation at the senior  
10 colleges, then why should we be rushed to  
11 judgment, simply to provide another vote for  
12 this? I think not.

13 I'm asking my colleagues to  
14 vote no in order to postpone a decision which  
15 is being made without adequate information.

16 When asked her views on other  
17 issues, on the issue of -- on the issue of  
18 privatization, again she said she didn't have  
19 enough information. She could not give us a  
20 view of her own.

21 Why then do we rush to provide  
22 a confirmation for someone who has not  
23 bothered to know what her views are on issues  
24 such as access, affordability, privatization  
25 and other issues that are before the SUNY

1 trustees?

2 We have an obligation to the  
3 City University board to make certain that we  
4 are not empowering an individual on the basis  
5 of an estimate but rather a basis on what her  
6 views are, and I think that we should not be  
7 rushed to judgment unless she herself shares  
8 with us her views on these issues.

9 I predict that if we are  
10 prevented from offering remediation at any  
11 level, including the senior colleges, it will  
12 be a sorry day for the City University of New  
13 York. We will be gambling with the future of  
14 CUNY. We will be gambling with the future of  
15 the -- of the institution and also the future  
16 of the city.

17 We are all products of  
18 immigration. We're all products of offers  
19 that can make for a very difficult decision,  
20 and I would not wish to saddle the City  
21 University trustees or the City University  
22 with a person who is being pushed for  
23 appointment simply because she agrees with the  
24 Governor's position on this issue.

25 We have a right to know what

1 her position is on such issues, of access, of  
2 the opportunity for people who need the City  
3 University of New York in order to fulfill  
4 their destiny and we have an obligation to  
5 know what the impact of privatization will  
6 mean. We have not been given a clear-cut  
7 answer to any of these questions and we cannot  
8 go with hunches. We cannot go with  
9 projections as to what she is thinking of if  
10 she cannot tell us clearly, definitively what  
11 her views are on these issues.

12 And so, my colleagues, with no  
13 disrespect to the sponsors, with no disrespect  
14 to Senator Marchi, I ask you to evaluate this  
15 candidate. She has not any views on  
16 remediation at senior colleges. She has no  
17 familiarity with what this means in terms of  
18 access for ethnic minorities and other  
19 minorities. She has no understanding of what  
20 these issues mean in the reality of the City  
21 University of the city of New York.

22 I ask you not to go so fast.  
23 Give her the time to learn and then to respond  
24 and then when she has time to learn and  
25 respond, I think it's time enough for us to

1 make a judgment regarding her.

2 So I ask for a vote of no  
3 because I believe that she will do a  
4 disservice to the access and availability of  
5 free higher education or relatively a free  
6 higher education in the city of New York, and  
7 I believe that we should go slowly as she  
8 wishes to go slowly and not rush to judgment.

9 For these reasons, I ask that  
10 there be a "no" vote temporarily until she can  
11 develop some views of her own and we have a  
12 right to know those views and we should not be  
13 signing a blank check for any person wishing  
14 to be a trustee.

15 I will recommend a "no" vote  
16 because I believe that City University is  
17 entitled to standards that will prepare the  
18 graduates for opportunities in the 21st  
19 Century, but we should not rush to judgment.

20 I, therefore, ask -- I will be  
21 voting no. I, therefore, ask my colleagues  
22 who believe in access to do the same thing  
23 with their votes.

24 Thank you.

25 ACTING PRESIDENT MEIER:

1 Senator Mendez.

2 SENATOR MENDEZ: Mr. President,  
3 at times when I take a position that differs  
4 with the position taken by some members of my  
5 party, I ask myself the question, must I do  
6 like the salmons and swim against the  
7 current?

8 It seems that there are  
9 instances in which that must be the case. We  
10 are talking here of a woman who presented her  
11 background and points of view in the Finance  
12 Committee meeting. I was -- it's a very  
13 fascinating thing that with so many people  
14 there, each one get -- each one of us gets a  
15 different perception of the woman, Mrs.  
16 Kathleen Pesile, and I want to tell you why  
17 I'm supporting her. I will be voting for  
18 her.

19 First, we're talking about a  
20 woman that was born in poverty. Her family  
21 had to take welfare. She was a welfare  
22 recipient, a woman that worked very hard, that  
23 is a graduate of City College and that  
24 attained in the economic area of our society a  
25 place of distinction.

1                    Oftentimes it happens that when  
2                    somebody comes from a very, very humble origin  
3                    and they achieve the big standards in society,  
4                    they don't want to hear anything that reminds  
5                    them of their usual origins. This woman is  
6                    totally different. She's very comfortable  
7                    with her background and her efforts and she  
8                    has chosen, besides being a 20-year adjunct  
9                    professor, to on her time over the weekends,  
10                    to teach, instruct and help students from City  
11                    University and most of them students of color.

12                    The one question that she did  
13                    not answer there in the Finance Committee  
14                    meeting was her position of -- on remedial  
15                    instruction.

16                    Now, the sad reality is that  
17                    the situation of remedial instruction has  
18                    become a political football, Mr. President,  
19                    and everybody is engaging in a ridiculous  
20                    rhetoric about the whole thing.

21                    I support it. I support access  
22                    to higher education because we all know that  
23                    the sons and daughters of previous immigrants  
24                    were able only to make it and succeed  
25                    economically in this country only through

1 education and, if education is denied to our  
2 people, then they will not get anywhere and we  
3 will be included in a permanent economic under  
4 class in the country and not very well, sir,  
5 but the political rhetoric that governs the  
6 issue of remedial instruction is such that  
7 people are -- because she answered that  
8 question and she just said, I want to gather  
9 the necessary information to get all my facts  
10 together. Why should I doubt that, in fact,  
11 this woman that has a history of being an  
12 achiever and responsible in many areas of  
13 human endeavor, why should I doubt that, in  
14 fact, she is sincere in saying that at the  
15 present moment she wants to engage in further  
16 research on the issue?

17 I don't know what her position  
18 is. I only know that this is a woman that, in  
19 my view, has shown sensitivity to the students  
20 that we in City College know must have a  
21 genuine opportunity. What surprises me in all  
22 of this rhetoric, Mr. President, is that for  
23 30 years, 30 long years, as a result of the  
24 decentralization law, the Central Board of  
25 Education was in charge of managing and

1 supervising instruction in high schools. They  
2 have done an abominable -- an abominable job  
3 with no public -- no public accountability  
4 whatsoever.

5 Recently we also know that that  
6 same Central Board of Education for the past  
7 years have done another abominable and  
8 irresponsible job in the area of education.  
9 Nobody is casting aspersions in that body that  
10 should be disbanded, if I would have my way.

11 So, Mr. President, I disagree  
12 wholeheartedly with my friends and my  
13 colleagues on this side of the aisle that do  
14 want to deny this woman with a proven record  
15 the opportunity to contribute to the  
16 betterment of the City University.

17 I don't think that the -- that  
18 the issue of access is at stake. I don't  
19 think that she would be voting for preventing  
20 access to students of poor families and  
21 minorities to go into the university because  
22 she herself was a member of that socioeconomic  
23 class way before, and I think that she could  
24 contribute and will contribute wisely.

25 So, Mr. President, I will

1 support her nomination.

2 Thank you.

3 ACTING PRESIDENT MEIER:

4 Senator Paterson.

5 SENATOR PATERSON: Thank you,  
6 Mr. President.

7 Senator Mendez has raised some  
8 good points about the qualifications of the  
9 individual and how those qualifications moved  
10 into other areas, may bring the individual in  
11 touch with what the duty of serving on the  
12 CUNY board may be, and I certainly hope that  
13 Senator Mendez is right.

14 In fact, this particular  
15 nominee, Ms. Kathleen Pesile, we need Senator  
16 Mendez to be right. We need Ms. Pesile to  
17 achieve. We need that because we have  
18 students who are at college level who  
19 unfortunately are not up to the standards of  
20 times that we would like. We have students  
21 going through the CUNY system who, in spite of  
22 what they may even learn there, may not have  
23 the opportunities to work and become members  
24 of our society in a working capacity to the  
25 extent that we would like.

1                   We have right now a system that  
2                   is very much under siege and we need  
3                   independent voices who are going to serve on  
4                   that board and are going to bring distinction  
5                   by doing something Senator Mendez was talking  
6                   about, going against the tide, going against  
7                   the flow from time to time.

8                   Now, I have never met Kathleen  
9                   Pesile, and I want to wish her the best at a  
10                  point that she might accede to the CUNY  
11                  board. Her resume certainly demonstrates  
12                  great proficiency in a number of areas, and I  
13                  don't think that this is an issue about her  
14                  personal ability, which I think is quite  
15                  distinguished as was described by Senator  
16                  Marchi and Senator Mendez.

17                  The issue is that in the past I  
18                  have stood here and I have wanted to get up  
19                  and talk about some of the nominees, and I  
20                  really just couldn't, and the reason I  
21                  couldn't was because I was imagining myself  
22                  sitting in the gallery. I imagine myself  
23                  coming to Albany knowing I would be ready to  
24                  work hard, knowing that I really have some  
25                  principle and some conviction and would not

1       like to see my record torn down by people on  
2       the floor who don't even know me. So we're  
3       not even going to do that because it's not an  
4       issue of this nominee, Ms. Pesile, because her  
5       distinctions stand on their own.

6                This is an issue of what the  
7       CUNY board is actually established for. This  
8       is an issue of what we are as legislatures -  
9       legislators charged to do in this chamber with  
10      respect to nominations.

11               This is a policy decision that  
12      we're looking at. Now, we know that it has  
13      been stated pretty openly that there are some  
14      changes that the Governor would like to make  
15      with respect to the way our City University of  
16      New York is operating, that there would be a  
17      denial of what were previously accepted  
18      opportunities, that we would be in some ways  
19      diminishing access at some points and we would  
20      also be not allowing for the level of  
21      remediation that we have allowed to this  
22      point.

23               We're talking about students  
24      who have graduated high school, students who  
25      have come through some of the most difficult

1 challenges of our time, poor housing,  
2 substance abuse, crime, an often failed  
3 education system, an often failed mental  
4 health -- an often failed health care delivery  
5 system and somehow through those issues they  
6 have come through it and graduated high  
7 school, not always with the ability that we  
8 might have desired but certainly with the  
9 credential that they are eligible to receive a  
10 college education, and what we are saying is  
11 that since they've demonstrated the  
12 determination and perseverance to get to the  
13 point that they are now, the expenditure for  
14 the remediation that they would need so that  
15 their true ability would come out is something  
16 that we endorse.

17 Some don't feel that way. We  
18 respect that point of view but what we are  
19 doing right now is now taking what are the  
20 issues of the day and using them as the test  
21 to appoint individuals where their service  
22 will actually extend far longer than what the  
23 controversy of today's issues are, and there  
24 is where I think we are remiss in constituting  
25 boards because we are not understanding the

1 distinction of leadership. We are not  
2 bringing leadership to these boards as much as  
3 we are bringing support for political  
4 positions that are currently seasonable and in  
5 doing that, we, in my opinion, diminish the  
6 integrity of all boards for all time.

7 We have got to bring to the  
8 CUNY board, as well as any other institutions,  
9 that integrity that is not just ephemeral but  
10 something that stands for some period of time.

11 Leaders are individuals who  
12 stand on their own judgment. Non-leaders are  
13 those who follow the opinions of others.  
14 Leaders think. Followers copy. Leaders  
15 produce. Followers simply go along. Leaders  
16 are concerned with the prospect of nature.  
17 Followers are concerned with the prospect of  
18 single issues. Leaders come to decisions  
19 through a free and open exchange of ideas and  
20 opinions with others. Followers want to herd  
21 people like brainless, thoughtless robots into  
22 any other opinion other than their own.

23 We come on earth as individuals  
24 with really just our minds. We come on earth  
25 quite unarmed as human beings. Our brain is

1       our only weapon, but we must remember that the  
2       mind is an attribute of the individual. There  
3       is no such thing as the collective brain. The  
4       person who thinks must think and do for  
5       themselves. The thinking and reasoning mind  
6       cannot be subordinated to the needs, opinions  
7       or wishes of others, and that is where I think  
8       we are going in a very, very circuitous and  
9       wrong direction by at this point looking at  
10      what may be the political battles of the day  
11      rather than the selection of individuals who  
12      have spent their lives educating themselves  
13      about the particular issue for which they are  
14      being appointed, which in this case is higher  
15      education.

16                    So without any ill feeling or  
17      malice toward the individual, who I hope will  
18      prove me wrong because the young men and women  
19      of New York City who are college age and  
20      eligible need it.

21                    However, Mr. President, I  
22      cannot support this particular nomination.

23                    ACTING PRESIDENT MEIER:  
24      Senator Markowitz.

25                    SENATOR MARKOWITZ: Thank you

1 very, very much.

2 First off, Senator Marchi,  
3 whenever you have such glowing words for a  
4 resident of Staten Island, I immediately take  
5 attention because I know that you don't use  
6 your words lightly and you're very sincere and  
7 I'm sure Ms. Pesile is one of the most  
8 outstanding products of Staten Island, that  
9 borough that's on the other side of your  
10 Verrazano Bridge, but during the  
11 administrations, Republican or Democrat, I  
12 have always supported a gubernatorial  
13 appointment whenever -- whenever possible,  
14 which has been 99 percent of the time, but  
15 there comes a time every now and then, even  
16 though I believe that chief executive has a  
17 right to select the men and women around him  
18 or her, in this case, it's not the person  
19 necessarily but the symbolism of what I  
20 believe can be the outcome.

21 Many of us, including myself,  
22 are a product of the City University. The  
23 marks, when I approached college, was such  
24 that I elected to go to the evening college  
25 for nine years and worked full time during the

1 day for a number of different reasons. I had  
2 to do that anyway, but I certainly would not  
3 want to put any student today, if they can  
4 have a choice, to go to school at night and to  
5 defer their graduation four-year cycle to a  
6 period of eight or nine years the way I had to  
7 do it.

8 I think that all of us share a  
9 goal, and that goal is that the more of our  
10 younger people that attain a higher education  
11 are the more young people as they grow into  
12 adults that will be productive residents of  
13 the state of New York and certainly of our  
14 nation and, therefore, the criteria that we  
15 should use is how do we educate more rather  
16 than how we wind the City University down to a  
17 level that you may feel will enhance the  
18 college's reputation and, as I look at it,  
19 will do damage for those students that need  
20 this education the most.

21 Now, the truth of the matter is  
22 that for many years, as you well know, this  
23 state government starved -- starved the city  
24 of New York in many ways in terms of the level  
25 of funding as opposed to many areas outside of

1 New York City and secondly we in New York City  
2 didn't do such a great job ourselves. This is  
3 not blaming one state or one city, but rather  
4 there's fault to go around, but certainly the  
5 end result of that was that too many of our  
6 kids from neighborhoods that are most  
7 challenging were not provided the best  
8 education that this society owes them.  
9 There's not a question about it.

10 Now we're saying to them that  
11 not only do we slap you one way but now we're  
12 going to slap you another way and that we're  
13 not going to allow you to be able to take  
14 these remediation courses that will bring them  
15 to the level that will give them every ability  
16 to compete and to become a college graduate,  
17 get a Master's Degree and a Ph.D., business  
18 degree, or whatever their life may bring them.

19 And so, Senator Marchi, my  
20 colleagues, the reason why I have to vote  
21 against this appointment, why I have to and  
22 why I pray that I'm wrong in this appointment  
23 in my vote and I hope in a year from now this  
24 nominee will be able to call me on the phone  
25 and say, Marty, your words and others around

1       this room were such that you realized as  
2       someone who struggled in your life, let's not  
3       forget that struggle or deny the opportunity  
4       to those that come after us, that the purpose  
5       of the City University, both the junior  
6       colleges, community college and the senior  
7       colleges, is to offer the greatest educational  
8       opportunities to the greatest number of our  
9       students. Let's not close the door but let's  
10      open our arms and open the doors and give  
11      every child, every student in this state, an  
12      opportunity to reach for the stars.

13                   Thank you very, very much.

14                   ACTING PRESIDENT MEIER:

15      Senator Holland.

16                   SENATOR HOLLAND: Mr.

17      President, could you read the last section of  
18      the bill and allow Senator Saland to speak -  
19      to vote, rather, on the nomination.

20                   ACTING PRESIDENT MEIER: The  
21      Secretary will call the roll.

22                   (The Secretary called the  
23      roll.)

24                   ACTING PRESIDENT MEIER:

25      Senator Saland.

1                   SENATOR SALAND: Aye, Mr.  
2           President.

3                   ACTING PRESIDENT MEIER:  
4           Senator Saland will be recorded in the  
5           affirmative.

6                   We'll withdraw the roll call.  
7           We're back on the nomination.

8                   Senator Lachman.

9                   SENATOR LACHMAN: Mr.  
10          President, I do want to speak on this, but I  
11          believe that the ranking Democratic member of  
12          the Finance Committee wanted to speak and I  
13          defer to him, Senator Gold, and I'll speak  
14          after him.

15                   ACTING PRESIDENT MEIER:  
16          Senator Gold.

17                   SENATOR GOLD: Thank you very  
18          much, Senator, Mr. President.

19                   Mr. President, if we get really  
20          back to basics, the reason for what we're  
21          doing today is constitutional and we have a  
22          mandate and the mandate is that whether we  
23          agree or do not agree with somebody's  
24          ideology, the issue is whether the person is  
25          qualified and it's quite obvious that during

1 the Carey-Cuomo years, members on the other  
2 side of the aisle were confirming people whose  
3 ideology they may not have believed in, but in  
4 all candor and in fairness to the  
5 Constitution, you were confirming people who  
6 were qualified.

7 The CUNY board has a huge  
8 responsibility and I'll tell you, I don't  
9 mince words too often, but the present  
10 chairman of that board, in my opinion, has,  
11 well, say been a disaster, certainly hasn't  
12 lived up to any hopeful expectations. The  
13 board itself has raised questions and that to  
14 some extent may be our fault, and the reason I  
15 say that may be our fault is because the way  
16 we do our confirmation process, I respectfully  
17 suggest to my colleagues, should be changed.

18 Years ago we didn't even take  
19 the confirmation process seriously and I  
20 remember when I came to the Senate and I said,  
21 you know, this is something which is a  
22 constitutional mandate. Why don't we take  
23 this seriously and it happened to be Governor  
24 Rockefeller at the time and people weren't  
25 interested in listening to me. The minute we

1 got to Governor Carey, the Republicans in this  
2 house said, You know, Manny, you had a  
3 terrific idea. We're going to take a much  
4 closer look at the nominations. Well, for  
5 whatever reason, we now do take a closer look,  
6 except that what happens is that there's a  
7 game in the confirmation process and while we  
8 joke about it, maybe it's time that as a  
9 collective body we stop joking about it and we  
10 change it. We tell people -- and I'm part of  
11 that problem -- we tell people if your  
12 confirmation is two minutes, it's better than  
13 if it was ten minutes and if it's 30 seconds,  
14 you did terrific and the best way to get  
15 through is don't know anything.

16 Well, I think the United States  
17 Congress goes too far the other way. I mean,  
18 they can hold confirmation hearings for 40  
19 days, but some place in the middle it makes  
20 some sense to make an adjustment.

21 The confirmation yesterday, for  
22 example, of our very distinguished colleague,  
23 John Daly. Now, many people in this house  
24 have voted with John Daly or against John Daly  
25 on certain energy issues. Nobody was

1 concerned yesterday as to his position on one  
2 particular issue or another. Nobody  
3 questioned that the man was qualified.

4 So when we were asking  
5 questions in the Committee, it really wouldn't  
6 have mattered too much constitutionally if  
7 this lady had said that she felt one way or  
8 another on certain of these issues or if she  
9 was leaning one way or the other, or if she  
10 had a prejudice one way or another. I'm using  
11 prejudice in a decent way, not in a bad way.  
12 That, in my opinion, would not have led to a  
13 disqualification, but if you have somebody who  
14 is asked what are legitimate questions and  
15 really, really borderline questions -- as a  
16 matter of fact, I would say superficial but  
17 they weren't, but they're so borderline.  
18 Nobody in the Committee was asking the  
19 candidate to go deeply into hidden items that  
20 may come up in front of CUNY. They weren't  
21 picking apart a statute. These were very  
22 generalized questions in areas that have  
23 become very, very well known in the media.

24 At one point the candidate said  
25 or somebody suggested -- I don't know whether

1       it was the candidate -- somebody suggested  
2       that somebody shouldn't have to read the New  
3       York Times in order to find out information,  
4       that somebody should be on the job and really  
5       in the middle and as I pointed out, I'm  
6       certainly the last person to suggest that the  
7       press ever gives you anything right regardless  
8       of what it is, but you certainly know there's  
9       an issue.  Whether you believe they're  
10      reporting or not, you know there's an issue.

11                 Now, the problem that many of  
12      us had in the Committee was how do you say you  
13      want to serve on a board and not understand  
14      that there's an issue out there and what human  
15      being hears that there's an issue and doesn't  
16      get some reaction?

17                 The normal response of most  
18      people I know is that, when you hear about an  
19      issue, you say, Well, gee, it sounds to me  
20      this or it sounds to me that, and if the  
21      candidate had said, Well, I know there's an  
22      issue out there and I know the board did  
23      something.  I think the board may be right.  
24      I'm not adverse to taking a look when I'm  
25      there or I think the board was wrong and I'm

1 not adverse to taking a look, you get a  
2 feeling that someone is leveling with you, and  
3 I think that is the disappointment that many  
4 of us felt.

5           Somebody said at the Committee  
6 meeting that the Daly -- Senator Daly example  
7 was not really a good example because almost  
8 everybody that comes before us has no  
9 experience, and I didn't answer it at the  
10 Committee, but I'll answer it here. That just  
11 really isn't so. My friends, that isn't so.

12           We have throughout the years  
13 confirmed people to the Parole Board who were  
14 parole officers. We have had people go to the  
15 Corrections Department who worked their way  
16 up. We have had bankers who go to the Banking  
17 Board and people in the insurance business who  
18 go to insurance boards and all of the time we  
19 get people who have experience. Do we have  
20 some people with no experience and the answer  
21 is yes and we ask them questions and that is  
22 the proper thing to do.

23           I have made the suggestion that  
24 in the future to avoid this problem maybe we  
25 ought to undertake as a Minority -- maybe even

1 as a Majority, God willing next year -- to  
2 send letters to nominees of a governor and  
3 say, Look, you're going to come before the  
4 Committee. We're interested in these areas.  
5 Please take a look at them before you get  
6 here, but this is a legitimate area of  
7 inquiry.

8 I want to turn to the nominee  
9 with a little more specificity. The nominee  
10 gave an opening statement, which I believe was  
11 very well prepared and probably very sincerely  
12 given, but I wrote down a couple of the words  
13 that were being used. So the nominee said she  
14 would like to be on the board so she could be  
15 a "facilitator". I asked her a question:  
16 What is it you want to facilitate? She said  
17 that she wants to be there to help make the  
18 changes, and I said tell me one of the changes  
19 and that's where the problems started to  
20 develop because she would not give us an area  
21 that she wanted to facilitate or a change that  
22 she wants to make and somebody, one of her  
23 supporters, said, Well, look, when the person  
24 gets there, you will be in the middle of a  
25 fight and why should you have to guess when

1 all this other information is there, except  
2 that this particular nominee has been an  
3 adjunct professor in the classrooms and she's  
4 proud of it and I'm proud of her for being in  
5 the classroom, but if you're in the classroom  
6 and you see on a day-to-day basis or even if  
7 it's weekends, you see what's going on, you  
8 must have some inclination of what you want to  
9 do. You've got to, and the disappointment  
10 that we had was that inability to come  
11 forward.

12 I want to lastly address one  
13 other issue. There is no doubt in my mind  
14 that, if you take a look at the background,  
15 you say you have a woman of humble beginnings,  
16 a woman who worked her way up, a woman who  
17 sincerely wants to do the right thing, and I  
18 don't want to attack people who are not here  
19 to defend themselves, but Herman Badillo is a  
20 person with a very exceptional background, a  
21 Borough President, a Congressman, done many  
22 things and he is certainly a man who has  
23 brought success and dignity to himself. It  
24 doesn't mean that I agree with the conclusions  
25 that he reaches on a particular issue.

1                   This woman has done wonderful  
2 things in her life and she should be proud of  
3 her life as Senator Marchi has set it forth  
4 and he is proud and we all understand that,  
5 but the fact that she had a certain background  
6 doesn't mean that when she gets on this board  
7 she is going to come to conclusions that we  
8 may agree with or we may not agree with.

9                   Now, somebody on the other side  
10 is saying, Manny, you're talking out of both  
11 sides of your mouth. On the one hand, you're  
12 saying you may or may not agree with her and  
13 on the other hand you're saying this is a  
14 question of qualification and she may be  
15 qualified if you don't agree with her, but  
16 I'll tell you why I'm not being hypocritical.

17                   I'm going to vote against this  
18 lady, this very nice lady, this fine lady,  
19 because I can't honestly tell anybody she is  
20 qualified because she hasn't given me anything  
21 in the interview to tell me she's qualified.  
22 If she said to me that she was opposed to one  
23 of my positions but at least I knew that she  
24 knows there's an issue and she's thought it  
25 out and came to a different conclusion, I

1       could say, Oy gevelte, you know -- oh, the  
2       stenographer is going to have a problem with  
3       that one -- I could say, you know, I'm hurt by  
4       the answer, but the woman is qualified. She  
5       knows the issues. She came to a conclusion.

6                In a situation where the person  
7       will not acknowledge the issues to the extent  
8       of even wanting to be involved during this  
9       process, I believe that it is impossible to  
10      say that the individual is qualified for this  
11      job.

12               Is she a qualified person?  
13      She's obviously an extraordinary person and  
14      someone who I would admire in terms of her  
15      background, but that's not my job today. My  
16      job today is to make a constitutional  
17      determination as to whether or not the person  
18      who is nominated by the Governor is qualified  
19      for this position and based upon what I have  
20      said and what others have said, I cannot in  
21      good conscience vote for the individual.

22               I do it with regret to my  
23      colleague, Senator Marchi, for whom I would  
24      like to be the head of the fan club and for  
25      whom I have the greatest esteem, but I really

1 do believe that we have to change our  
2 process. We have to encourage candidates to  
3 be forthright instead of hiding behind I don't  
4 know, and I think that will benefit all of us  
5 and lead us to a better class across the board  
6 of nominees.

7 Thank you, Mr. President.

8 ACTING PRESIDENT MEIER:

9 Senator Maltese -- I'm sorry. Senator -- all  
10 right.

11 SENATOR LACHMAN: I defer.

12 ACTING PRESIDENT MEIER:

13 Senator Lachman, I apologize. We went out of  
14 order, and I lost my place.

15 Senator Maltese and then

16 Senator Lachman.

17 SENATOR MALTESE: Mr.

18 President, it seems to me that what has  
19 occurred here brings to mind a saying we have  
20 in the law, when you have a good case on the  
21 law, you pound on the law. When you have a  
22 good case on the facts, you pound on the facts  
23 and when you have neither, you pound on the  
24 table.

25 In this case what we've seen,

1 with the exception of Senator Gold, is a  
2 raising of the level of noise and a raising in  
3 the level of rhetoric about a candidate who is  
4 eminently qualified.

5 For a while, as Senator Gold  
6 spoke, I thought perhaps he had seen the light  
7 and was going to agree with the confirmation  
8 of this candidate. He spoke about our  
9 constitutional duty and spelled out that it  
10 was our duty during prior administrations to  
11 rule on the qualification of candidates and  
12 confirm or not confirm based on those  
13 qualifications.

14 I had the opportunity to sit in  
15 on the Higher Education meeting where this  
16 splendid candidate spoke and had an  
17 opportunity now to go over her  
18 qualifications. I certainly yield to the  
19 oratorical skills and the wisdom of my good  
20 colleague Senator Marchi who well spelled out  
21 every single reason why this candidate  
22 deserved our support and endorsement and  
23 certainly Senator Mendez who spoke so  
24 eloquently and arrived at the same conclusion.

25 I've sat in this chamber

1 through a prior administration and now through  
2 the confirmation of Governor Pataki's  
3 appointments and seldom do -- I do not recall  
4 another instance where a candidate was so well  
5 qualified.

6 At the Higher Education meeting  
7 I heard that perhaps 20 years -- 20 years as  
8 an adjunct professor, an adjunct lecturer at  
9 the College of Staten Island, City University  
10 of New York, the same university that she will  
11 be asked to sit in as a trustee does not  
12 qualify her to sit as a trustee, where a  
13 background second to none in financial  
14 planning, investment advisory, a leader -- I  
15 heard about the qualifications of a leader  
16 from the distinguished Senator Paterson and a  
17 long recitation of what makes a leader and  
18 then did not arrive at the same conclusion as  
19 my eminent colleague as to whether or not this  
20 distinguished candidate falls into that  
21 category.

22 Putting aside the views on  
23 remediation which so many of my colleagues  
24 have arrived at after a great deal of study,  
25 of documents, no one can say that this

1 candidate is not eminently qualified. No one  
2 can call into question either her character or  
3 her qualifications.

4 With the financial difficulties  
5 and problems facing the City University of New  
6 York, to have a candidate of this financial  
7 stature and background and experience on the  
8 board will serve the ends of not only we in  
9 the Legislature but the taxpayers and  
10 ultimately the students who can rely on her  
11 expertise so that there can be a delegation of  
12 resources that will benefit the students in  
13 the end.

14 We heard -- we heard about her  
15 answers to questions. She gave the same  
16 answers that I would hope as a trial attorney  
17 to receive from a juror. What she said was  
18 that she had an open mind. What she kept  
19 saying was that she had an open mind, that  
20 based on the facts and based on discourse and  
21 based on interrelations with her fellow  
22 trustees and relying on information she had  
23 from that 20 years and the information she had  
24 in the school of hard knocks and the  
25 experience she had gained from her colleagues

1 and her friends and her neighbors and people  
2 at the City University of New York, she would  
3 make a decision but that she did not have the  
4 advantage that the present trustees had in  
5 many cases of amendments and documents and  
6 remediation plans and a horde of documents  
7 that came before us as members of the Higher  
8 Education Committee. I asked a question of  
9 the nominee -- I asked the question, does she  
10 know what she's in for and she has indicated  
11 that she does.

12 Earlier today discussing it  
13 with some of my colleagues, we talked about  
14 some of the visits that many of us have had  
15 from opponents and supporters of the City  
16 University of New York, of supporters and  
17 opponents of remediation, and many people had  
18 indicated that they had picketed and we saw  
19 the emotions run so high that a legislative  
20 colleague, the chairman of Higher Ed' for the,  
21 I like to call it the lower house, was  
22 actually arrested and spent the night in jail  
23 as a result of the intensity of feeling and  
24 the intensity of discourse about this  
25 remediation issue and this candidate honestly

1       said she had not had the advantage of  
2       reviewing all these documents and thus was  
3       unwilling to state a complete opinion. Of  
4       course, she has opinions pro and con but they  
5       are not based on all the facts and she feels  
6       the jury is still out.

7                    Are we to take her to task for  
8       this? I say no. I say she has the background.  
9       She went through the same trials and  
10      tribulations and travails that many of the  
11      present students in CUNY had, and I don't want  
12      to go into remediation because we could spend  
13      the rest of the day and probably the rest of  
14      the week on remediation as the present  
15      trustees and the Faculty Senate and the  
16      presidents of CUNY and the chairwoman of the  
17      board and the chancellor have spent all of the  
18      time in the public press and at meetings and  
19      still have not arrived at complete conclusions  
20      as to whether or not it is completely the  
21      right path.

22                   There was mention made here  
23      about giving the Governor -- agreeing with the  
24      Governor's choice and giving the Governor the  
25      opportunity to pick his choice. Well, I say

1 the conclusion arrived at by some of my  
2 distinguished colleagues is hogwash. They  
3 say, I agree that the Governor should be given  
4 the right to select his choice except when I  
5 disagree, except when I believe that I have  
6 looked into the mind of this candidate and  
7 have come to the conclusion that she's going  
8 to disagree with what I feel remediation  
9 should be in the City University of New York.

10 Well, my good colleagues, Mr.  
11 President, everyone seems to agree that our  
12 present system and our present program is a  
13 disgrace. Everyone seems to agree that we are  
14 not serving the best interests of those  
15 students that we proclaim that we exalt above  
16 all others and want to help.

17 The present situation is not  
18 only a disgrace but it has called into  
19 question the credentials of all prior  
20 graduates of City University of New York. We  
21 all took great pride in the City University of  
22 New York educational system and we want it to  
23 be better. Perhaps we disagree as to the path  
24 to make it better.

25 Well, the present chairwoman of

1 the board and the present chancellor and the  
2 present trustees are taking action to remedy  
3 an intolerable situation and the Governor  
4 seeks to put an eminently qualified woman with  
5 impeccable credentials on that board.

6 The only thing I question is  
7 why anyone would subject themselves to the  
8 abuse, to the questions, to the picketing and  
9 what she will face in the coming weeks and  
10 months and years of her term, but she has  
11 chosen to give back, chosen to give back to  
12 the City University that has placed her in the  
13 position that she can attain this exalted  
14 position, to make the decisions to help those  
15 who follow in her path.

16 I say, Mr. President, she  
17 deserves that opportunity. I'm proud to join  
18 my colleagues, Senator Marchi, Senator  
19 LaValle, Senator Mendez, in the support of  
20 this distinguished candidate, and I move for  
21 her confirmation.

22 ACTING PRESIDENT MEIER:

23 Senator Lachman.

24 SENATOR LACHMAN: Mr.

25 President, three weeks ago several old friends

1 of mine called to alert me to the possibility  
2 that there would be a nominee for the CUNY  
3 Board of Trustees before a very important vote  
4 that the CUNY Board of Trustees took two and a  
5 half weeks ago.

6 I approached Senator LaValle,  
7 who was in the chamber, and I also approached  
8 Senator Marchi, who was in the chamber, and I  
9 told them it would be highly unseemly for the  
10 chief executive of the state of New York to  
11 appoint a member to the CUNY Board of Trustees  
12 three or four days prior to a most important  
13 vote on remediation, where she would not have  
14 the opportunity to meet with the various  
15 constituencies of students and faculty and  
16 parents to decide what her position would be.  
17 The unseemly is even aggravated by the fact  
18 that the faculty of CUNY has had a contract  
19 outstanding for two years and I hope will soon  
20 be consummated and given to them.

21 Fortunately, the chief  
22 executive had the wisdom not to present the  
23 name of Kathleen Pesile prior to that vote and  
24 I must tell you, unfortunately, the vote went  
25 against what I thought it should go.

1                   Three weeks later we have this  
2                   lady's name. Three weeks ago we could have  
3                   had a referendum on the best process for  
4                   remediation. Today the vote is for a  
5                   candidate, a candidate who does or does not  
6                   have the ability to take on a very difficult  
7                   assignment and grow in this assignment and say  
8                   yes or no to a mayor or governor when he or  
9                   she feels that is advisable, as trustee John  
10                  Morning did in opposing the mayor of the city  
11                  of New York on this vote.

12                  I did not -- I was not present  
13                  at the Finance Committee meeting but I was  
14                  present at the full meeting of the Higher  
15                  Education Committee and -- which started  
16                  early. Unfortunately there weren't that many  
17                  present at the beginning, but I, as Senator  
18                  Maltese and Senator LaValle can attest to, I  
19                  literally grilled the candidate on various  
20                  issues, especially the issue of remediation,  
21                  and there is no question that she did not show  
22                  her hand, but I want to state categorically  
23                  that she showed her hand in one area at 9:35  
24                  this morning. She is -- she is completely and  
25                  totally committed to access. If she did not

1 show her hand in complete commitment to access  
2 I would have no problem in opposing her  
3 nomination because access to the university is  
4 the bedrock of the greatness of the City  
5 University of New York.

6 I do have a problem now because  
7 I strongly believe that remediation is  
8 necessary on the community college level and  
9 that there is no institution as far as I know,  
10 public urban institution of higher education  
11 in the United States, that does not permit  
12 remediation on the community college level.

13 I also have great reservations  
14 on the issue of privatization of remediation  
15 that the mayor of the city of New York seems  
16 to believe in. This is uncharted territory  
17 and could lead to many problems and great  
18 damage.

19 Now, let's not fool ourselves.  
20 We have a CUNY today, a fractured board, a  
21 torn board, a board with several factions that  
22 strongly needs a vital center and strongly  
23 needs a person with a potential for leadership  
24 and it should not only rest on one issue.

25 At the early interview process,

1 I brought to the table, to the chairman of the  
2 Committee on Higher Education as well as the  
3 candidate, my concern about other issues that  
4 are in the domain of a board of trustees of  
5 CUNY that have not necessarily been on the  
6 forefront recently.

7 For example, why should a \$120  
8 million budget of the CUNY Research Foundation  
9 not have a diagnostic independent audit?

10 Another example. Each  
11 president in CUNY -- and there are 18 -- have  
12 discretionary funds from 1- to \$2 million.  
13 Why should not these funds also have a  
14 diagnostic independent audit?

15 I know that the candidate is a  
16 member or had been a member of the College of  
17 Staten Island Foundation, and I have to  
18 commend her for opposing the commingling of  
19 restricted and not restricted funds at that  
20 college. These are important issues to me as  
21 are -- as is another issue.

22 Why is there an override of \$50  
23 million in the construction of the new campus  
24 of the City University of New York Graduate  
25 Center which adds on \$20 million in additional

1 rental fees each year?

2           These are issues of major  
3 importance that members of the board of  
4 trustees must grapple with on a regular basis  
5 and not be led around by others who say that  
6 this has been the tradition, that there have  
7 been audits by administrators but not  
8 diagnostic independent audits.

9           I would urge the candidate, if  
10 she is selected, to sever her relationships  
11 with the College of Staten Island. I  
12 personally believe it might eventually lead to  
13 a conflict of interest, to be an adjunct at a  
14 college and also to be a member of a board of  
15 trustees that decides on faculty,  
16 administrative and fiduciary concerns, but  
17 after -- I don't want to use the word  
18 "grilling" -- a series of questions that took  
19 about 15 or 20 minutes -- and this is a very,  
20 very difficult decision for me -- and  
21 realizing the option -- the options that we  
22 have available to us today, I have to admit,  
23 as Senator Gold admitted, that this lady is a  
24 highly qualified candidate for the position.

25           Unlike Senator Gold, I am going

1 to support this candidate for membership on  
2 the CUNY Board of Trustees. I think she can  
3 become a leader, as Trustee John Morning has  
4 become a leader, in the vital center of a very  
5 fractious board. I hope I will not be  
6 disappointed in this candidate because the  
7 University to me is as important as anyone  
8 else in this chamber.

9 I support the nominee.

10 ACTING PRESIDENT MEIER:

11 Senator Leichter.

12 SENATOR LEICHTER: Mr.

13 President, I'm a member of the Higher  
14 Education Committee, and I was there when the  
15 nominee appeared before the Committee and,  
16 very frankly, I was greatly disappointed with  
17 the nominee.

18 I think we've got to take a  
19 look at really what the standards are for the  
20 City University. Now, if the standard is only  
21 a person, nice person, good character,  
22 integrity, hasn't done anything wrong, may  
23 have contributed to her community, millions of  
24 people qualify for that board of trustees. If  
25 that's your standard, then possibly this

1       nominee will suffice, and let me say from all  
2       I see and read and hear, she seems like a  
3       perfectly decent person. I'm not questioning  
4       her character, and so on, and let me say  
5       anybody that John Marchi speaks for right away  
6       has a lot going for them in my estimation, but  
7       take a look at what we're trying to do and  
8       what we should be achieving here.

9               We have a university system  
10       that, indeed, is in trouble. We also have a  
11       university system where politics are playing a  
12       major role, a role far beyond what politics  
13       should do and be involved in in the academic  
14       process.

15              You have, I think a governor  
16       and you have a mayor who is seeking to set  
17       policy for the University in a manner that I  
18       think is wrong and, therefore, what we've seen  
19       over the last few years is appointments to the  
20       CUNY Board of Trustees not of people of the  
21       sort of prestige and standing and achievements  
22       that were -- that was true of appointees over  
23       the years. You don't see a Stanley Fink. You  
24       don't see a Herman Badillo. You don't see  
25       people who have achieved a status which will

1 allow them to represent that university and to  
2 exercise a degree of knowledge, independence  
3 and commitment that someone who comes from  
4 ordinary levels of life -- and I'm not  
5 degrading that by any means -- but who cannot  
6 perform the same service for the University,  
7 and I think this nominee, to my mind, brings  
8 absolutely nothing special to the University.

9 She's, as I said, certainly an  
10 intelligent person, a good person, but that's  
11 not the standard. We want somebody who can be  
12 a true leader, who has shown whether in the  
13 world of business or the world of academia or  
14 the world of public life some major  
15 achievement that you can say this is somebody  
16 who can provide the leadership that this  
17 university needs and I just don't see this in  
18 this nominee.

19 Now, I was also very troubled,  
20 I must say, by the refusal of this nominee to  
21 address the most burning issue involving  
22 higher education in the City University.

23 Senator Lachman-- and he is so  
24 learned and so knowledgeable -- there, by the  
25 way, would be a great CUNY trustee -- raised a

1 number of issues and they're important but  
2 there is, to my mind, a clear litmus test of  
3 whether you have the basic qualification to  
4 serve on this board of trustees, and that's an  
5 issue that's been roiling the waters of  
6 politics and the waters of academia in New  
7 York for months and that's remediation.  
8 There's no other issue that is that important  
9 that will tell you as much about where a  
10 nominee is and on that issue, when asked about  
11 it, this nominee was a blank.

12 Now, either she wasn't being  
13 honest with the Committee that she has views  
14 on remediation and if she wasn't being honest  
15 with the Committee, then I don't want her on  
16 the board or she truly hasn't known about the  
17 issue and if that's the case after all of the  
18 stories that have appeared about the major  
19 debate that's been going on, to have somebody  
20 not have any views on remediation, that to my  
21 mind disqualifies her also.

22 I must say that I've heard on  
23 the part of people who are supporting her, you  
24 know, this hope. Well, we hope she's going to  
25 be a leader and we hope she's going to

1 understand the issues. I think we have a  
2 right to demand of the Governor that he  
3 provide us with a nominee that has the  
4 standing that we can say this is somebody that  
5 already has the ability, the knowledge and, as  
6 I said -- and I think it's terribly important  
7 -- the status to serve on one of the most  
8 important boards that we have.

9 I dislike voting against  
10 anyone. I dislike certainly not being able to  
11 confirm a person that the Governor has  
12 nominated, but I end up by saying that we have  
13 a university system that's in trouble, in  
14 trouble mainly because it's been denied  
15 resources, in trouble mainly because it hasn't  
16 received the leadership that it should have  
17 from its board of trustees, a system that's in  
18 trouble also because of the political  
19 interference, particularly by the mayor of the  
20 city of New York in his sort of single-minded  
21 effort to make that university in what he knew  
22 as a university when he attended school in the  
23 Bronx, in Manhattan College many years ago.

24 Remediation obviously is  
25 terribly important. Most university systems

1 have it. Harvard has it. I don't know why  
2 the City University can't have it and when you  
3 take a look at the student population that's  
4 coming to the City University and you take a  
5 look at the style that has developed where  
6 people, unlike when I went to school eons ago  
7 used to -- you graduated from high school.  
8 You put in four years and you got your college  
9 degree. That's just not the way it's done any  
10 longer and remediation certainly plays a role  
11 in enabling people to get through the  
12 university system, to acquire a Bachelor of  
13 Arts degree or at least a community college  
14 degree in the style and in the manner that is  
15 now in conformity with what the economy and  
16 society is like today.

17 So, yes, we need remediation  
18 but we need trustees who understand the  
19 issues, who will be candid with the  
20 Legislature, who will let us know what their  
21 position is and if they don't have a position  
22 on a crucial issue, then maybe they've told us  
23 that they're not ready to become members of  
24 the board to which they were appointed.

25 I'm sorry to have to say that

1 this is a nominee I cannot support.

2 ACTING PRESIDENT MEIER:

3 Senator Smith. Senator Smith.

4 SENATOR SMITH: Thank you, Mr.  
5 President.

6 The higher education of our  
7 young people is something that is near and  
8 dear to most of us, and I'd like to give you  
9 nine reasons why this nominee should not be  
10 voted for in the affirmative:

11 State Senator Carl Kruger,  
12 Brooklyn College; Professor and Dr. Seymour  
13 Lachman, Brooklyn College; State Senator Marty  
14 Markowitz; State Senator John L. Sampson  
15 Esquire, Brooklyn College; State Senator Dr.  
16 Nellie Santiago, Hunter College; State Senator  
17 Larry Seabrook, Esquire; State Senator Ada L.  
18 Smith, Bernard M. Baruch; State Senator  
19 Leonard R. Stavisky, Professor; State Senator  
20 Alton R. Waldon, Jr., Esquire. Nine members  
21 of this body who are the products of City  
22 University.

23 Maybe we did not need  
24 remediation. Maybe we had advantages of  
25 having an education that was adequate in our

1 elementary and junior high schools and high  
2 school careers, opportunities that may no  
3 longer exist in the city of New York; but  
4 those that follow us must be given the  
5 opportunity to go forth and to get a degree  
6 and, hopefully, some of them may serve in this  
7 house.

8           Nine of us, many of us who  
9 served on student government, and learned what  
10 government was about, prior to venturing into  
11 the waters of politics. We have been given a  
12 nominee who gives no answers. Will you tell  
13 me how are we to judge an individual if they  
14 can't answer the questions? We are given a  
15 nominee who claims not to understand what the  
16 problems of CUNY are. How do you vote for  
17 someone that has no knowledge? I certainly  
18 cannot, and I think that you have nine good  
19 reasons not to vote for Kathleen M. Pesile,  
20 who may be the most wonderful, creative  
21 individual in the world, but if you cannot  
22 give answers, you do not deserve my vote.

23           ACTING PRESIDENT MEIER:

24           Senator Montgomery.

25           SENATOR MONTGOMERY: Yes.

1 Thank you, Mr. President.

2 I want to make it very clear  
3 for the record that I join other colleagues of  
4 mine who have complimented, in fact, the  
5 accomplishments of Ms. Pesile. I think that  
6 she embodies the American dream in the most  
7 positive sense, and that is that she came up  
8 as a person who was not of means and who has  
9 been able to, through her progress through the  
10 educational system in our city and having  
11 taken advantage of other means and forms of  
12 assistance like public housing, and et cetera,  
13 has been able to accomplish what I consider to  
14 be a very high level of success in the  
15 financial world, as well as the education  
16 world, and she is, I note, herself a product  
17 of the community college system in the city of  
18 New York as have been -- and the reason that I  
19 say that she embodies the American dream is  
20 because that's how many people who came from  
21 other parts of the world and found themselves  
22 in the City were able to move up, not as  
23 necessarily only as an individual but whole  
24 communities have been able to -- to advance  
25 and develop based on access to free education,

1 to higher education in the city of New York;  
2 i.e., Italian-Americans, i.e., Irish-Americans,  
3 i.e., Jewish-Americans and hopefully also  
4 African-Americans and Chinese-Americans and  
5 Asian-Americans and Latina or Latino-Americans  
6 and et cetera.

7 So I'm really not going to vote  
8 against specifically Ms. Pesile because I  
9 don't think that it is -- it would be fair to  
10 vote against her as an individual, but the  
11 fact of the matter is that she -- this  
12 nomination represents for us an opportunity to  
13 speak to those people who already sit on the  
14 board of trustees, as well as Ms. Pesile, as  
15 well as the Governor, as well as the Mayor of  
16 the city of New York, to say to them in no  
17 uncertain terms that the decision that was  
18 made by the board of trustees is a life and  
19 death decision for entire communities of black  
20 and brown people in the city of New York, and  
21 the reason that I'm here in this chamber is to  
22 represent those people who sent me here and  
23 those are the people who sent me here, and I  
24 think that the Governor would be disappointed  
25 if I did not stand up and say and vote on

1       behalf of my community and my people because  
2       they are the ones who are going to be hurt.

3                       Now, the fact of the matter is  
4       that the whole issue that has been raised by  
5       the board of trustees that they want to  
6       improve the Hispanics, it's like a code word  
7       to me. It's the same thing that people say to  
8       me when a black or brown family moves into the  
9       neighborhood, the property values go down so  
10      now that the City University of New York is  
11      majority black and brown, the standards have  
12      gone down. It's the same argument, and I  
13      resent that. It is not the case. In fact,  
14      there is no indication that the standards in  
15      CUNY, in City University of New York, are any  
16      less than they were when anyone in this  
17      chamber graduated from any one of those -  
18      those colleges.

19                      So that's obviously not the  
20      issue. The issue is, who has access to it?  
21      Who has an opportunity to strive to meet the  
22      standards of City University? That's what the  
23      decision has impacted on, and I say that the  
24      decision means that in ten years we will not  
25      see black and brown people in that system

1           because they will not have been given the  
2           initial opportunity to go in there and at  
3           least strive to meet the standards. That, to  
4           me -- that is to me un-American and certainly  
5           we should not be doing that at this point in  
6           time in the development of our nation.

7                         What is this business of  
8           leveling the playing field? Everybody says the  
9           playing field is now level. Is that the case?  
10          Is that what we are doing, leveling the  
11          playing field? I wonder -- I wonder what this  
12          is all about. So certainly for Ms. Kathleen  
13          Pesile, it is not a vote against you,  
14          personally. I hope you will understand that,  
15          and I think that you will.

16                        It is in opposition to a  
17          decision that has been made that means to me  
18          that people, young people and older people,  
19          older people my age and a little bit younger  
20          and a little bit older, who also need access  
21          to CUNY in order to enhance their ability to  
22          take care of themselves and to support  
23          themselves, and to be successful, those people  
24          will also be shut out.

25                        So I'm saying to you, this, in

1 my estimation, is a vote that is -- will send  
2 a message, I hope that is very clear and very  
3 specific that what has been the decision -  
4 the decision that has been made, means the  
5 death of my people and my community, a  
6 community of black and brown people in the  
7 city of New York, and I certainly am voting no  
8 to you and to the Governor.

9 Thank you, Mr. President.

10 ACTING PRESIDENT MEIER:

11 Senator Marchi.

12 SENATOR MARCHI: Mr. President,  
13 I want to recognize that the remarks that have  
14 been placed on the record have been done in a  
15 very tasteful manner and reflect basic  
16 concerns that should be addressed.

17 Now, initially we heard about  
18 other experiences than being an adjunct  
19 professor, 20 years as Senator Maltese pointed  
20 out. She made presentations on understanding  
21 cultural diversity to Howard University in  
22 1993. Earlier she was awarded -- for the  
23 College of Jersey City, was awarded the Ethnic  
24 Heritage Studies Office of Education in  
25 Washington, for the work she did there. This

1 calls for deep knowledge of a diverse  
2 population, and the realization that it's very  
3 important to address that in terms of Senator  
4 Lachman's word which is fortuitous "access".  
5 Access, access!

6 Now, why am, I exercised,  
7 because a Staten Islander is involved? Because  
8 she has great merit? It goes a little further  
9 even beyond that. In 1993, when I was  
10 chairman of New York City, I had a long  
11 discussion with Jim Kavanaugh who was then the  
12 Budget Director, and Jim at that time, a very  
13 fine individual -- I said, "What about the  
14 City University?" He said, "Oh, we have no  
15 problem with that." I'm using a hypothetical  
16 figure. If it costs \$1,000 to educate a child  
17 or a young student at the City University, and  
18 we have \$100 million, we just multiply that  
19 and then look at the competitive examinations  
20 and those who -- those who come within the  
21 magic circle to fill the -- that sum of money  
22 that is available, and we're going to the  
23 merits, I said, Yes, but what about the -- you  
24 mean to tell me that if I have 85.5 I get in.  
25 If I have 84.4 I don't? Not if you're

1 qualified.

2 So I -- at that time, I don't  
3 know how many of you from the Bronx remember  
4 Ivan Warner. Anybody?

5 SENATOR STAFFORD: I do.

6 SENATOR MARCHI: Ivan Warner  
7 was a black Senator who became a judge  
8 thereafter and passed away a few years ago,  
9 and he was unhappy with the circumstances. I  
10 had called on Lester Grainger, who was Whitney  
11 Young's predecessor as chairman of the -- or  
12 president of the Urban League, and had served  
13 as Assistant Secretary of Defense during the  
14 Roosevelt administration, during World War II,  
15 and he was -- he was really suffering under  
16 these circumstances.

17 At that time, Mr. President,  
18 despite the number of the Minority that was in  
19 the city of New York, one percent were members  
20 of the Minority and the 99 other percent were  
21 Caucasian. I could not see and neither could  
22 Ivan how people who were supporting this  
23 system, an urban college and university and at  
24 that same time had only one percent. He also  
25 told me that he was teaching at Dillard,

1 Dillard was the university that, at that time,  
2 was educating ten percent of the higher  
3 university students in Louisiana. They were  
4 black. It was Jim Crow, but at least they  
5 were getting on a rung of the ladder.

6 He said, what -- what is our  
7 system, one percent? I don't know if that  
8 shocks any of you now, because so many years  
9 go by, but I immediately took it upon myself  
10 to call for a study and report and we reported  
11 and I said, This should not stand. This  
12 should not stand.

13 I introduced the concept of  
14 open admissions which is being qualified to  
15 some extent now, Seek and Discovery, and  
16 you're looking at the person that initiated  
17 that with Lester Grainger. I don't want to  
18 see that destroyed. I want to see people have  
19 access. I want to see people go on that board  
20 that can deliver, and I am not denigrating  
21 anything that you have said here today because  
22 I know it comes from the noblest instincts  
23 about the people that you want to represent in  
24 the best possible way.

25 We're not going to do that if

1 we go back to 1963. We mention -- someone  
2 mentioned that there were nine students now,  
3 nine members, what was it, students, and you  
4 were an honor graduate of Baruch, am I  
5 correct?

6 (Senator Smith nods head.)

7 How many of those nine would  
8 have been turned away under the old system?  
9 How many? But I would not let it stand, and we  
10 introduced legislation. I don't know how many  
11 people were here at that time, I think maybe  
12 Senator Gold was staff -- were you in 1993,  
13 '63? Trade ages with you very happily, but  
14 today we don't have one percent. We have the  
15 students that you mention and the people who  
16 have ascended to major office, as Senator  
17 Montgomery pointed out, but they would not  
18 have had that opportunity had we not  
19 undertaken that initiative vigorously and  
20 pressed it home.

21 I can tell you, as God is my  
22 judge, I had Lester Grainger in the office.  
23 The guy broke down in tears because we said -  
24 they said he was under severe pressure at that  
25 time to moderate the report that we had worked

1 out. So I have a deep and abiding interest.  
2 I don't want to see 1963 repeated again. I  
3 want to see this system grow on the terms of  
4 access and I feel very confident and I  
5 wouldn't be so exercised if it wasn't for the  
6 subject matter, although I would be out of  
7 respect for the nominee and my friendship and  
8 propinquity as a neighbor, but I don't want to  
9 see us go back. I don't want to see the clock  
10 roll back. I want to see that opportunity  
11 amplified.

12 It is my feeling that we will  
13 be doing the right thing. We don't campaign  
14 for these offices. We campaign to do the best  
15 we can. Then we have issue development.  
16 Think about this seriously when you cast your  
17 vote. It's a very serious problem and, if we  
18 are to maintain progress, we need -- we need  
19 the people who are like the -- like Kathleen  
20 Pesile.

21 So I implore you, I believe  
22 that if you review clips from the old days,  
23 you will find that what I told you was  
24 absolutely true. There are old clips from the  
25 Daily News that were page 2 and 3, on a daily

1 basis on the events of that -- of those  
2 circumstances, in the hearings and the fights  
3 that we have had.

4 It wasn't easy. It wasn't  
5 easy. I can tell you that. William Randolph  
6 -- not William Randolph, not Randolph -- he  
7 was a black union leader, William Randolph,  
8 you know, I asked him, he said because he had  
9 come in at an earlier session and Ivan had  
10 reached out for him on the question of  
11 submitting an -- getting the free tuitional  
12 thing. I said, Sure, anything you say, but  
13 what we have to do is to increase the access  
14 of minorities.

15 He was convinced. He was  
16 convinced, as were others, and together we  
17 mustered the effort that finally ended in  
18 broadening this, and it is not one percent  
19 now. I don't know what it is, about 22  
20 percent or 25 percent, but those 22 or 25  
21 percent would still be one percent if we were  
22 back to that mentality.

23 So, Mr. President, let us do  
24 some soul searching. This is important, very  
25 very important to the people of our districts,

1 to minority populations which suffered the  
2 greatest insult in those days, not consciously  
3 or consciously delivered, but that was the net  
4 effect, excluding them as the practices then  
5 in use prevailed and effectively blocking them  
6 while they paid the taxes for maintaining a  
7 good system elsewhere.

8 So it's a serious issue. I know  
9 we've taken a lot of time, but it is that  
10 serious. I feel very confident that we will  
11 be making a distinct contribution to the  
12 workings of the City University by confirming  
13 this nomination.

14 SENATOR SKELOS: Mr. President,  
15 I believe we've approached the two-hour limit  
16 and Senator LaValle will now close on the  
17 nomination.

18 ACTING PRESIDENT MEIER: For  
19 the purpose of closing debate, Senator  
20 LaValle.

21 SENATOR LAVALLE: Thank you,  
22 Mr. President.

23 This debate really began at  
24 9:30 this morning when Ms. Pesile appeared  
25 before my committee which we probably debated

1 the issue for about a hour, about another hour  
2 in Finance and close to two hours here on the  
3 floor of the Senate, and I think it really  
4 shows that the best of the members and the  
5 concern of this body that when there is an  
6 important issue, the members will participate  
7 fully in the deliberations.

8 Many of the speakers talked, I  
9 think, very honestly about what really we are  
10 debating here today, and it really is not  
11 about the qualifications of Kathleen Pesile.  
12 Senator Paterson, Senator Montgomery indicated  
13 the issue is much bigger than the nominee. It  
14 was just a matter of time before this body  
15 became engaged in the debate about what  
16 happened when the CUNY Board of Trustees took  
17 a vote to deal with the issue of remediation,  
18 and I am sure that the debate -- this is not  
19 the last of that debate.

20 The issue is also the change  
21 and some of the things that the board -- the  
22 CUNY board are considering, the issues that it  
23 is considering begins to change for the first  
24 time in two decades the shape of the City  
25 University. You notice I said the shape, not

1 the mission.

2           Senator Marchi, I always hate  
3 to follow you, because of your eloquence and  
4 how you can zero in on the issue in a very  
5 lawyerly manner. Because this state, this  
6 Legislature has for all the time that I've  
7 been involved, whether as a staff member or a  
8 member of this great body, in higher  
9 education, the words "access" and "choice"  
10 have been the philosophy of our government.  
11 It has been the philosophy of this Legislature  
12 and so we will continue to ensure that our  
13 citizens have access and choice.

14           City University is, as I  
15 recall, 150 years young. It has a rich  
16 history in educating its citizens. All of the  
17 immigrants who came and made a stake in this  
18 state, in this country and in the City. One of  
19 our speakers, I think Senator Montgomery,  
20 talked about appropriately all of the  
21 generations, and she went right down.

22           Today in the Finance Committee,  
23 I thought the nominee very eloquently talked  
24 about her life, talked about her background,  
25 but in talking about her life and where she

1       came from and what she did indicates a sensi  
2       tivity to students that are economically  
3       disadvantaged, economically disadvantaged.  
4       She has indicated as an adjunct professor the  
5       kinds of students that she has provided  
6       mentoring to, to get them moving forward -  
7       people of diverse backgrounds and ages.

8               So we have a person that is  
9       very, very sensitive in terms of what  
10      education provides, I think as she has  
11      indicated, the latter to excess for many  
12      individuals, and certainly understands as she  
13      grew up individuals of diversity, whether it  
14      was Latinos or African-Americans, specifically  
15      mention those groups, and so I find that as  
16      she deliberates and listens and uses her great  
17      intellect, that she will be making right and  
18      correct decisions.

19             Senator Paterson went through  
20      talking about leadership, and so forth.  
21      Senator, there's a book that I use with my  
22      classes called Lincoln on Leadership. I  
23      recommend it to you. The author brings us  
24      through the kinds of things that our great  
25      President Abraham Lincoln used providing

1 leadership, and some of those things the  
2 author talks about repeatedly is being a good  
3 listener, gathering facts, being out among  
4 people, understanding what the problems are,  
5 so that you can make proper decisions.

6 The nominee, both in the Higher  
7 Education Committee and in the Finance  
8 Committee, talked repeatedly about those  
9 attributes, listening, gathering facts,  
10 understanding the problem and applying a  
11 rational decision-making process to coming to  
12 a conclusion.

13 The issue today is not about  
14 the qualifications of this nominee. She has  
15 superb qualifications. We are not going to  
16 resolve the mission of CUNY. We are not going  
17 to resolve the remediation issue through this  
18 nominee. There are many stakeholders that  
19 will be heard from on this issue. There is  
20 more in the process before it reaches a  
21 conclusion and we, as members, I am sure, will  
22 be able to voice our opinion at an appropriate  
23 -- at appropriate times during this lengthy  
24 process.

25 If the members on this side of

1 the aisle or in this chamber wanted to make a  
2 point to the nominee that there are members  
3 that have very strong feelings about  
4 remediation, I think that the nominee has  
5 heard that, understands that, but we should  
6 not be using the nominee to accomplish some  
7 sort of philosophical mission with -- that  
8 this is a termination in the debate. It is  
9 not, and I think most of you know that this  
10 debate has really just begun.

11 And so, my colleagues, I ask  
12 you, as I conclude my remarks, that you  
13 reconsider your vote, be fair to the nominee,  
14 if you believe that her qualifications are  
15 good and that it would bring another point of  
16 view to the board in terms of her back  
17 ground. I believe it does, and I recommend a  
18 vote in the affirmative.

19 ACTING PRESIDENT MEIER:

20 Question is on the confirmation of the  
21 nomination. All those in favor signify by  
22 saying aye.

23 SENATOR PATERSON: Mr.

24 President, slow roll call.

25 SENATOR SMITH: Slow roll

1 call.

2 ACTING PRESIDENT MEIER:

3 Senator Skelos.

4 SENATOR SKELOS: Please ring  
5 the bell, if the members would come into the  
6 chamber to vote.

7 ACTING PRESIDENT MEIER: More  
8 than five members having stood. There will be  
9 a slow roll call.

10 Secretary will call the roll.

11 THE SECRETARY: Senator Abate.

12 SENATOR STAFFORD: Mr.

13 President.

14 ACTING PRESIDENT MEIER:

15 Senator Stafford.

16 SENATOR STAFFORD: While we are  
17 -- while everyone is coming in, I wonder if I  
18 could explain my vote, and I certainly don't  
19 want to follow Senator LaValle or Senator  
20 Marchi, because what little I can say would  
21 deserve little more than a footnote.

22 ACTING PRESIDENT MEIER:

23 Secretary will call Senator Stafford out of  
24 order.

25 THE SECRETARY: Senator

1           Stafford.

2                         SENATOR STAFFORD:   Thank you.

3           Thank you.  And I, of course, am going to  
4           second what Senator LaValle said and what  
5           Senator Marchi said, and I can say it no  
6           better and, of course, I am supporting the  
7           nominee with gusto.

8                         I would just say again, I think  
9           this was an excellent debate.  Someone on the  
10          other side mentioned, and I thought it was  
11          very sensitive, I wish I could remember  
12          exactly who it was, but they mentioned that  
13          they come up here and very often they're very  
14          hesitant to say anything because they realize  
15          people are being considered and here we are in  
16          a very major debate, and you sort of wonder,  
17          you know, how that person feels.

18                        Well, I compliment the Governor  
19          on the appointment because, in my opinion, he  
20          has a very capable, very understanding and an  
21          outstanding individual who, I think,  
22          understands that this was a very heartfelt  
23          debate.  As a Senator said much earlier today  
24          many of us don't agree, but really that's what  
25          this country is all about.

1                   So with that, Mr. President, I  
2                   just say that I find when you have candidates  
3                   or nominees going before a committee, it  
4                   depends on where you're sitting on how you  
5                   feel the candidate or nominee is answering  
6                   questions.

7                   Again, keeping that sense of  
8                   humor from 1974 to 1994 I sat in a certain  
9                   position where I sometimes had the frustration  
10                  of what some people are feeling today. I, for  
11                  one, do feel strongly that a nominee should  
12                  not have all the answers. I think it's a  
13                  mistake for a nominee, whether it be in Albany  
14                  or any other place, to go in and start telling  
15                  or sharing with anyone exactly what their  
16                  decisions are going to be because they don't  
17                  know until they get confirmed, appointed and  
18                  take up the responsibilities and receive all  
19                  the information.

20                  But I would say with the  
21                  nominee present, I think this was an excellent  
22                  debate. I think it was constructive. I  
23                  disagree with a number of people who spoke but  
24                  with that, I want to join in supporting a very  
25                  fine candidate, a candidate who I think will

1 do an excellent job, Kathleen Pesile, and  
2 thank you for being here.

3 ACTING PRESIDENT MEIER:  
4 Senator Stafford will be recorded in the  
5 affirmative.

6 The Secretary will resume the  
7 slow roll call.

8 THE SECRETARY: Senator Abate.

9 SENATOR ABATE: No.

10 THE SECRETARY: Senator Alesi.

11 SENATOR ALESI: Yes.

12 THE SECRETARY: Senator

13 Balboni.

14 SENATOR BALBONI: Aye.

15 THE SECRETARY: Senator

16 Breslin.

17 SENATOR BRESLIN: No.

18 THE SECRETARY: Senator Bruno.

19 (Affirmative indication. )

20 THE SECRETARY: Senator

21 Connor.

22 (Negative indication. )

23 THE SECRETARY: Senator Cook.

24 SENATOR COOK: Yes.

25 THE SECRETARY: Senator

1 DeFrancisco.

2 SENATOR DeFRANCISCO: Yes.

3 THE SECRETARY: Senator  
4 Dollinger.

5 SENATOR DOLLINGER: Mr.  
6 President, just to explain my vote.

7 I had a discussion with the  
8 chairman of the Finance Committee in the  
9 Finance Committee about my view about nominees  
10 who come before the Finance Committee and  
11 aren't prepared to offer an opinion about the  
12 most controversial issue that the board we're  
13 appointing them to has had to deal with in the  
14 past and will have to deal with in the  
15 future.

16 I made my views clear in the  
17 Finance Committee. Unlike some, I look at  
18 this as an election. This is a person who is  
19 coming to us to be elected. We have a simple  
20 duty, either cast a "yes" vote or "no" vote  
21 and I would just suggest that all the comments  
22 made about being open-minded and keeping your  
23 options open and gathering information, I  
24 would just suggest to everybody in this  
25 chamber, go to your voters the next time you

1 want their vote and tell them that, and I'll  
2 tell you what they'll do. They won't give you  
3 their vote. The reason is because they say  
4 you aren't prepared; you aren't willing to  
5 make a decision and you aren't willing to tell  
6 us what you will do when they elect you, and  
7 so, therefore, they'll say, "I'm not going to  
8 vote for you."

9 In this case, because I believe  
10 this candidate has not done that, has not told  
11 us what she'll do, I am reluctantly going to  
12 vote no.

13 ACTING PRESIDENT MEIER:  
14 Senator Dollinger will be recorded in the  
15 negative.

16 The Secretary will resume the  
17 roll call.

18 THE SECRETARY: Senator  
19 Farley.

20 SENATOR FARLEY: Aye.

21 THE SECRETARY: Senator  
22 Fuschillo.

23 SENATOR FUSCHILLO: Aye.

24 THE SECRETARY: Senator  
25 Gentile.

1 SENATOR GENTILE: Mr.

2 President, if I may explain my vote.

3 As much as I respect my fellow  
4 colleague from Staten Island, Senator Marchi,  
5 and take to heart greatly what he says and the  
6 opinions that he expresses, I also -- I also  
7 value highly the opinion of member of my party  
8 Senator Stavisky, and his questions and some  
9 of the questions that were raised by members  
10 of my Conference here as to this nominee, and  
11 as much as I would, as a Senator representing  
12 a portion of Staten Island, be proud and  
13 willing to support a fellow Staten Islander, I  
14 must say that I am troubled -- troubled  
15 greatly by the questions raised here by many  
16 of my colleagues concerning -- concerning this  
17 nominee.

18 Certainly, in accord with  
19 Senator Marchi, her resume is quite  
20 impressive. I'm sure she is a fine, fine  
21 woman and something -- someone that, in other  
22 circumstances, I certainly would -- would  
23 support. In this instance, however, given the  
24 concern I have for the issues raised in regard  
25 to -- to CUNY and the future of CUNY, I have a

1 responsibility to the students in my district  
2 and to the families in my district, whether  
3 those families be from Bensonhurst, Bath  
4 Beach, Rosebank or Midland Beach, I have a  
5 responsibility to those families and to those  
6 students that questions that were raised here  
7 today have some answers.

8 Now, I'm told from my  
9 colleagues that at the -- at the hearing this  
10 morning, those questions were not answered by  
11 the nominee, and there was no indication from  
12 the nominee concerning some of the -- the  
13 issues that were raised. It's unfortunate, I  
14 must say also that being a Staten Islander and  
15 representing -- having part of the Staten  
16 Island -- I represent part of Staten Island,  
17 that the nominee did not take the opportunity  
18 to reach out to me and speak to me.

19 I believe the nominee is aware  
20 of the fact that there are only two -- two  
21 state Senators representing Staten Island.

22 ACTING PRESIDENT MEIER:  
23 Senator Gentile, the time established by the  
24 rules to explain your vote has expired. How  
25 do you vote?

1                   SENATOR GENTILE: Had she done  
2 so, it might have been different.

3                   ACTING PRESIDENT MEIER:  
4 Senator Gentile, how do you vote?

5                   SENATOR GENTILE: But my vote  
6 at this point is in the negative.

7                   ACTING PRESIDENT MEIER:  
8 Senator Gentile will be recorded in the  
9 negative.

10                  THE SECRETARY: Senator Gold.

11                  SENATOR GOLD: Mr. President,  
12 in explaining my vote, and I hadn't intended  
13 to explain my vote because I made my comments  
14 earlier, but I think it's appropriate having  
15 listened to the distinguished representative  
16 from Staten Island who just spoke, to thank  
17 the representative in this house for the  
18 opportunity to show everybody what courage  
19 really is, and my compliments Senator Gentile,  
20 because obviously this vote is one of sensi  
21 tivity to you, and I'm sure that some of my  
22 colleagues on the other side were wondering  
23 what you might do and what this vote has  
24 proven is that Senator Gentile understands why  
25 he was elected. He was elected to do

1 something with his seat, not merely to retain  
2 it, as some people think you're supposed to  
3 do, and to stand up and speak out for the -  
4 the youngsters, the students in your district  
5 even though people are going to ask you, Why  
6 would you vote against a Staten Islander.

7 Senator, my hat is off to you.  
8 That is the kind of courage that this  
9 Legislature is all about and, Senator Gentile,  
10 that's one of the reasons why I look at you  
11 here today and my colleagues will look at you  
12 in that seat next year also.

13 Congratulations!

14 I vote in the negative.

15 ACTING PRESIDENT MEIER:

16 Senator Gold will be recorded in the  
17 negative.

18 Secretary will resume.

19 THE SECRETARY: Senator  
20 Gonzalez.

21 (There was no response. )

22 Senator Goodman.

23 (There was no response. )

24 Senator Hannon.

25 SENATOR HANNON: Yes.

1 THE SECRETARY: Senator  
2 Hoffmann.  
3 SENATOR HOFFMANN: Aye.  
4 THE SECRETARY: Senator  
5 Holland.  
6 (There was no response. )  
7 Senator Johnson.  
8 SENATOR JOHNSON: Aye.  
9 THE SECRETARY: Senator Kruger.  
10 SENATOR KRUGER: No.  
11 THE SECRETARY: Senator Kuhl.  
12 SENATOR KUHL: Yes.  
13 THE SECRETARY: Senator  
14 Lachman.  
15 SENATOR LACHMAN: Aye.  
16 THE SECRETARY: Senator Lack.  
17 SENATOR LACK: Aye.  
18 THE SECRETARY: Senator  
19 Larkin.  
20 SENATOR LARKIN: Aye.  
21 THE SECRETARY: Senator  
22 LaValle.  
23 SENATOR LAVALLE: Aye.  
24 THE SECRETARY: Senator  
25 Leibell.

1 SENATOR LEIBELL: Aye.

2 THE SECRETARY: Senator

3 Leichter.

4 SENATOR LEICHTER: No.

5 THE SECRETARY: Senator

6 Libous.

7 SENATOR LIBOUS: Aye.

8 THE SECRETARY: Senator

9 Maltese.

10 SENATOR MALTESE: If I may, I'd  
11 like to utilize the time of explaining my vote  
12 to simply extend my deep appreciation to the  
13 Governor's choice, my choice, what will be the  
14 Senate's choice, and commend her for true  
15 courage in her desire to give back and  
16 congratulations on what she has achieved in  
17 life and what she will achieve in the future.

18 Godspeed! I cast my vote in  
19 the affirmative.

20 ACTING PRESIDENT MEIER:  
21 Senator Maltese will be recorded in the  
22 affirmative.

23 Secretary will resume.

24 THE SECRETARY: Senator

25 Marcellino.

1                   SENATOR MARCELLINO:  Aye.  
2                   THE SECRETARY:  Senator  
3           Marchi.  
4                   SENATOR MARCHI:  Aye.  
5                   THE SECRETARY:  Senator  
6           Markowitz.  
7                   SENATOR MARKOWITZ:  Mr.  
8           President, for all the reasons I indicated  
9           before that I would vote in the negative, and  
10          I will, but I urge our new appointee who will  
11          be a member, keep hope alive.  Keep hope  
12          alive.  
13                    ACTING PRESIDENT MEIER:  
14          Senator Markowitz will be recorded in the  
15          negative.  
16                    Secretary will resume the roll  
17          call.  
18                    THE SECRETARY:  Senator  
19          Maziarz.  
20                    SENATOR MAZIARZ:  Aye.  
21                    THE SECRETARY:  Senator Meier.  
22                    SENATOR MEIER:  Aye.  
23                    THE SECRETARY:  Senator Mendez.  
24                    SENATOR MENDEZ:  Yes.  
25                    THE SECRETARY:  Senator

1           Montgomery.

2                           SENATOR MONTGOMERY:  Mr. -

3                           ACTING PRESIDENT MEIER:

4           Senator Montgomery.

5                           SENATOR MONTGOMERY:  Yes, Mr.

6           President.  I would like to explain my vote  
7           briefly.

8                           Really it's not so much to  
9           explain my vote as it is to go on record here  
10          that I want to offer a particular word of  
11          gratitude and regard and respect in the  
12          highest order for our Senator from Staten  
13          Island, Senator Marchi, who has, in my  
14          estimation, been -- played such a role -- I'm  
15          sorry I did not know the role that you were  
16          playing; I had not heard that story or in 1963  
17          and subsequent to the time that you did the  
18          report, and you understood the importance of  
19          doing something about it.

20                          What you did has changed the  
21          course of lives for thousands and thousands of  
22          people in the city of New York, and certainly  
23          I shall never forget what you -- what you have  
24          done, and while I'm not voting the same as  
25          you, I certainly have heard the most profound

1 statement in this chamber by someone who -  
2 who had that kind of vision and also the  
3 courage and the commitment to do something.

4 So I thank you on behalf of the  
5 people certainly that I represent and the many  
6 many thousands of people who also don't know  
7 this story that you told today and, Mr.  
8 President, I vote no.

9 ACTING PRESIDENT MEIER:  
10 Senator Montgomery will be recorded in the  
11 negative.

12 Secretary will resume.  
13 THE SECRETARY: Senator  
14 Nanula.

15 SENATOR NANULA: No.  
16 THE SECRETARY: Senator  
17 Nozzolio.

18 SENATOR NOZZOLIO: Aye.  
19 THE SECRETARY: Senator  
20 Onorato.

21 SENATOR ONORATO: No.  
22 THE SECRETARY: Senator  
23 Oppenheimer.

24 SENATOR OPPENHEIMER: No.  
25 THE SECRETARY: Senator

1 Padavan.  
2 SENATOR PADAVAN: Yes.  
3 THE SECRETARY: Senator  
4 Paterson.  
5 SENATOR PATERSON: No.  
6 THE SECRETARY: Senator  
7 Present.  
8 SENATOR PRESENT: Aye.  
9 THE SECRETARY: Senator Rath.  
10 SENATOR RATH: Aye.  
11 THE SECRETARY: Senator  
12 Rosado.  
13 SENATOR ROSADO: No.  
14 THE SECRETARY: Senator Saland  
15 voting in the affirmative earlier.  
16 Senator Sampson.  
17 SENATOR SAMPSON: No.  
18 THE SECRETARY: Senator  
19 Santiago.  
20 SENATOR SANTIAGO: No.  
21 THE SECRETARY: Senator  
22 Seabrook.  
23 SENATOR SEABROOK: No.  
24 THE SECRETARY: Senator Seward.  
25 (There was no response. )

1 Senator Skelos.  
2 SENATOR SKELOS: Aye.  
3 THE SECRETARY: Senator Smith.  
4 SENATOR SMITH: No.  
5 THE SECRETARY: Senator Spano.  
6 SENATOR SPANO: Aye.  
7 THE SECRETARY: Senator  
8 Stachowski.  
9 SENATOR STACHOWSKI: No.  
10 THE SECRETARY: Senator  
11 Stavisky.  
12 SENATOR STAVISKY: No.  
13 THE SECRETARY: Senator  
14 Trunzo.  
15 SENATOR TRUNZO: Aye.  
16 THE SECRETARY: Senator  
17 Velella.  
18 (There was no response. )  
19 Senator Volker.  
20 SENATOR VOLKER: Yes.  
21 THE SECRETARY: Senator  
22 Waldon.  
23 (There was no response.)  
24 THE SECRETARY: Senator  
25 Wright.

1 SENATOR WRIGHT: Aye.  
2 ACTING PRESIDENT MEIER: Call  
3 the absentees.  
4 THE SECRETARY: Senator  
5 Gonzalez.  
6 (There was no response. )  
7 Senator Goodman.  
8 (There was no response. )  
9 Senator Holland.  
10 SENATOR HOLLAND: Yes.  
11 THE SECRETARY: Senator  
12 Seward.  
13 (There was no response. )  
14 Senator Velella.  
15 (There was no response. )  
16 Senator Waldon.  
17 (There was no response. )  
18 THE SECRETARY: Ayes 35, nays  
19 21.  
20 ACTING PRESIDENT MEIER: The  
21 nominee is confirmed.  
22 Ms. Pesile, we congratulate you  
23 and wish you well with your important duties.  
24 (Applause)  
25 Senator Skelos.

1                   SENATOR SKELOS: Mr. President,  
2                   there will be an immediate meeting of the  
3                   Rules Committee in the Majority Conference  
4                   Room, and the Senate will stand at ease.

5                   ACTING PRESIDENT MEIER: There  
6                   will be an immediate meeting of the Rules  
7                   Committee in the Majority Conference Room.

8                   Senator Skelos, before we -  
9                   before we stand at ease, might we entertain  
10                  some motions? We'll return -- and may we have  
11                  some order. We'll return to the order of  
12                  motions.

13                  SENATOR SKELOS: If there is  
14                  any housekeeping at the desk, could we do that  
15                  now.

16                  ACTING PRESIDENT MEIER: There  
17                  are some motions.

18                  Senator Nozzolio.

19                  SENATOR NOZZOLIO: Mr.  
20                  President, I wish to call up Print Number  
21                  588-B recalled from the Assembly which is now  
22                  at the desk.

23                  ACTING PRESIDENT MEIER:  
24                  Secretary will read.

25                  THE SECRETARY: Calendar Number

1 1140, by Senator Lack, Senate Print 588-B, an  
2 act to amend the Real Property Actions and  
3 Proceedings Law.

4 SENATOR NOZZOLIO: Mr.  
5 President, I now move to reconsider the vote  
6 by which this bill was passed.

7 ACTING PRESIDENT MEIER: Call  
8 the roll on reconsideration.

9 (The Secretary called the roll  
10 on reconsideration. )

11 THE SECRETARY: Ayes 61.

12 SENATOR NOZZOLIO: Mr.  
13 President, on behalf of Senator Lack, I now  
14 offer the following amendments.

15 ACTING PRESIDENT MEIER:  
16 Amendments received.

17 SENATOR NOZZOLIO: Mr.  
18 President, on page number 29, I offer the  
19 following amendments to Calendar Number 947,  
20 Senate Print Number 6550, and ask that that  
21 bill retain its place on Third Reading  
22 Calendar, on behalf of Senator Present.

23 ACTING PRESIDENT MEIER:  
24 Amendments are received, and the bill will  
25 retain its place on the Third Reading

1 Calendar.

2 SENATOR NOZZOLIO: Mr.  
3 President, on page number 34, I offer the  
4 following amendments to Calendar Number 1082,  
5 Print Number 5548-A, and ask that said bill  
6 retain its place on the Third Reading  
7 Calendar, on behalf of Senator Goodman.

8 ACTING PRESIDENT MEIER:  
9 Amendments are received, and the bill will  
10 retain its place on the Third Reading  
11 Calendar.

12 Secretary will read the  
13 substitutions.

14 THE SECRETARY: On page 5,  
15 Senator Balboni moves to discharge from the  
16 Committee on Rules Assembly Bill Number 11258  
17 and substitute it for the identical Third  
18 Reading Calendar 137.

19 On page 8, Senator Volker moves  
20 to discharge from the Committee on Rules  
21 Assembly Bill Number 11177 and substitute it  
22 for the identical Third Reading Calendar 281.

23 On page 9, Senator Volker moves  
24 to discharge from the Committee on Rules  
25 Assembly Bill Number 11286 and substitute it

1 for the identical Third Reading Calendar 314.

2 On page 17, Senator Balboni  
3 moves to discharge from the Committee on Rules  
4 Assembly Bill Number 11047-A, and substitute  
5 it for the identical Third Reading Calendar  
6 618.

7 On page 20, Senator Maltese  
8 moves to discharge from the Committee on Rules  
9 Assembly Bill Number 6947-C and substitute it  
10 for the identical Third Reading Calendar 718.

11 On page 20, Senator Trunzo  
12 moves to discharge from the Committee on Rules  
13 Assembly Bill Number 6875 and substitute it  
14 for the identical Third Reading Calendar 720.

15 On page 21, Senator Alesi moves  
16 to discharge from the Committee on Rules  
17 Assembly Bill Number 5285-A and substitute it  
18 for the identical Third Reading Calendar 733.

19 On page 28, Senator Larkin  
20 moves to discharge from the Committee on Rules  
21 Assembly Bill Number 11185-A and substitute it  
22 for the identical Third Reading Calendar 924.

23 On page 33, Senator Goodman  
24 moves to discharge from the Committee on Rules  
25 Assembly Bill Number 6872-A, and substitute it

1 for the identical Third Reading Calendar  
2 1079.

3 And on page 44, Senator Nanula  
4 moves to discharge from the Committee on Rules  
5 Assembly Bill Number 10751 and substitute it  
6 for the identical Third Reading Calendar  
7 1413.

8 ACTING PRESIDENT MEIER:  
9 Substitutions ordered.

10 Senator Kuhl.

11 SENATOR KUHL: Yes, Mr.  
12 President. From the third row bleachers, may  
13 we now have the Senate stand at ease.

14 ACTING PRESIDENT MEIER: The  
15 Senate will stand at ease.

16 (The Senate stood at ease at  
17 3:31 p.m.)

18 (Whereupon, the Senate resumed  
19 at 5:08 p.m.)

20 SENATOR SKELOS: Mr. President.

21 ACTING PRESIDENT MEIER:  
22 Senator Skelos.

23 SENATOR SKELOS: Mr. President,  
24 if we could return to reports of standing  
25 committees, I believe there's a report of the

1 Rules Committee at the desk. I ask that it be  
2 read at this time.

3 ACTING PRESIDENT MEIER: We'll  
4 return to the order of reports of standing  
5 committees.

6 The Secretary will read.

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

10 Senate Bill 3056, by Senator  
11 Lack, an act to amend the General Municipal  
12 Law;

13 3180-B, by Senator Maltese, an  
14 act to amend the Administrative Code of the  
15 city of New York;

16 4828-A, by Senator Farley, an  
17 act to amend the Banking Law;

18 5542, by Senator Seabrook, an  
19 act authorizing the city of New York;

20 5687-A, by Senator Paterson, an  
21 act authorizing the city of New York;

22 6028-A, by Senator Spano, an  
23 act to amend the Vehicle and Traffic Law;

24 6045, by Senator Lachman, an  
25 act authorizing the city of New York;

1                   6213-A, by Senator Johnson and  
2 others, an act to amend the Not-for-Profit  
3 Corporation Law;

4                   6562-A, by Senator Volker, an  
5 act to authorize the city of Buffalo;

6                   6607-A, by Senator Lack, an act  
7 to amend the Real Property Law;

8                   6711-B, by Senators Hannon and  
9 others, an act to amend the State Finance Law;

10                   6781-B, by Senator Larkin and  
11 others, an act to amend the Penal Law;

12                   6863-A, by Senator Farley, an  
13 act to amend the Public Authorities Law;

14                   6651-A, by Senator Oppenheimer,  
15 an act in relation to authorizing.

16                   All bills directly for third  
17 reading.

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

20                   ACTING PRESIDENT MEIER: The  
21 motion is to accept the report of the Rules  
22 Committee. All those in favor signify by  
23 saying aye.

24                   (Response of "Aye".)

25                   Opposed, nay.

1 (There was no response.)

2 The report is accepted.

3 Senator Skelos.

4 SENATOR SKELOS: Mr. President,  
5 would you call up Calendar Number 1472, Senate  
6 6863-A, by Senator Farley.

7 ACTING PRESIDENT MEIER: The  
8 Secretary will read Calendar 1472.

9 THE SECRETARY: Calendar Number  
10 1472, by Senator Farley, Senate Print 6863-A,  
11 an act to amend the Public Authorities Law and  
12 the Executive Law, in relation to establishing  
13 the Schenectady Metroplex.

14 ACTING PRESIDENT MEIER: Read  
15 the last section.

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

18 ACTING PRESIDENT MEIER: Call  
19 the roll.

20 (The Secretary called the  
21 roll.)

22 THE SECRETARY: Ayes 61.

23 ACTING PRESIDENT MEIER: The  
24 bill is passed.

25 Senator Skelos.

1                   SENATOR SKELOS: Mr. President,  
2                   would you call up Calendar Number 1471, Senate  
3                   6651-A, by Senator Oppenheimer.

4                   ACTING PRESIDENT MEIER: The  
5                   Secretary will read Calendar Number 1471.

6                   THE SECRETARY: In relation to  
7                   Calendar Number 1471, Senator Oppenheimer  
8                   moves to discharge from the Committee on Rules  
9                   Assembly Bill Number 9683-B and substitute it  
10                  for the identical Senate Bill 6651-A.

11                  ACTING PRESIDENT MEIER: The  
12                  substitution is ordered.

13                  The Secretary will read.

14                  THE SECRETARY: Calendar Number  
15                  1471, by member of the Assembly Matusow,  
16                  Assembly Print 9683-B, an act in relation to  
17                  authorizing the town of North Castle.

18                  ACTING PRESIDENT MEIER: Read  
19                  the last section. There's a home rule message  
20                  at the desk.

21                  ACTING PRESIDENT MEIER:  
22                  Section 2. This act shall take effect  
23                  immediately.

24                  ACTING PRESIDENT MEIER: Call  
25                  the roll.

1 (The Secretary called the  
2 roll.)

3 THE SECRETARY: Ayes 61.

4 ACTING PRESIDENT MEIER: The  
5 bill is passed.

6 Senator Skelos.

7 SENATOR SKELOS: Mr. President,  
8 the Senate will stand at ease.

9 ACTING PRESIDENT MEIER: The  
10 Senate will stand at ease.

11 (Whereupon, the Senate stood at  
12 ease from 5:11 p.m. until 5:12 p.m.)

13 ACTING PRESIDENT MEIER:  
14 Senator Skelos.

15 SENATOR SKELOS: If we could  
16 just go to motions and resolutions, I believe  
17 there's some housekeeping at the desk.

18 ACTING PRESIDENT MEIER: We'll  
19 return to the order of motions and  
20 resolutions.

21 The Secretary will read the  
22 substitutions.

23 THE SECRETARY: Senator Volker  
24 moves to discharge from the Committee on Rules  
25 Assembly Bill 9414-A and substitute it for the

1 identical Senate Bill 6562-A.

2 Senator Farley moves to  
3 discharge from the Committee on Rules Assembly  
4 Bill 11217 and substitute it for the identical  
5 Senate Bill 4828-A.

6 ACTING PRESIDENT MEIER: The  
7 substitutions are ordered.

8 Senator Nozzolio.

9 SENATOR NOZZOLIO: Mr.  
10 President, I wish to call up Bill Number  
11 5799-A, recalled from the Assembly, which is  
12 now at the desk.

13 ACTING PRESIDENT MEIER: The  
14 Secretary will read.

15 THE SECRETARY: By Senator  
16 DeFrancisco, Senate Bill 5799-A, an act to  
17 amend the Domestic Relations Law.

18 SENATOR NOZZOLIO: Mr.  
19 President, I now move to reconsider the vote  
20 by which this bill was passed.

21 ACTING PRESIDENT MEIER: Call  
22 the roll on reconsideration.

23 (The Secretary called the roll  
24 on reconsideration.)

25 THE SECRETARY: Ayes 61.

1                   ACTING PRESIDENT MEIER: The  
2 bill is -- Senator Nozzolio.

3                   SENATOR NOZZOLIO: Mr.  
4 President, I now offer the following  
5 amendments on behalf of Senator DeFrancisco.

6                   ACTING PRESIDENT MEIER: The  
7 amendments are received.

8                   Senator Skelos.

9                   SENATOR SKELOS: Mr. President,  
10 could we stand at ease now.

11                   ACTING PRESIDENT MEIER: The  
12 Senate will stand at ease.

13                   SENATOR SKELOS: If we could -  
14 that was long enough, Mr. President.

15                   ACTING PRESIDENT MEIER: Okay.  
16 I feel refreshed.

17                   Senator Skelos.

18                   SENATOR SKELOS: There will be  
19 an immediate conference of the Majority in the  
20 Majority Conference Room.

21                   ACTING PRESIDENT MEIER:  
22 Immediate conference of the Majority in the  
23 Majority Conference Room.

24                   SENATOR GOLD: Mr. President.

25                   ACTING PRESIDENT MEIER:

1 Senator Paterson.

2 SENATOR PATERSON: Mr.  
3 President, I have an original idea. There  
4 will be an immediate conference of the  
5 Minority. We would have it in the Majority  
6 Conference Room, a prelude, so to speak, but  
7 we'll have it in the Minority Conference Room.

8 ACTING PRESIDENT MEIER:  
9 Immediate Conference of the Minority in the  
10 Minority Conference Room.

11 SENATOR SKELOS: Once again we  
12 will stand at ease, Mr. President.

13 ACTING PRESIDENT MEIER: The  
14 Senate will stand at ease.

15 (Whereupon, the Senate stood at  
16 ease from 5:14 p.m. until 6:00 p.m.)

17 SENATOR SKELOS: Mr. President.

18 ACTING PRESIDENT MEIER:  
19 Senator Skelos.

20 SENATOR SKELOS: There will be  
21 an immediate meeting of the Rules Committee in  
22 the Majority Conference Room, and the Senate  
23 will stand at ease.

24 ACTING PRESIDENT MEIER:  
25 Immediate meeting of the Rules Committee in

1 the Senate Majority Conference Room, and the  
2 Senate will stand at ease.

3 (Whereupon, the Senate stood at  
4 ease from 6:00 p.m. until 8:00 p.m.)

5 ACTING PRESIDENT MEIER: The  
6 Senate will come to order.

7 SENATOR KUHL: Mr. President.

8 ACTING PRESIDENT MEIER:  
9 Senator Kuhl.

10 SENATOR KUHL: May we return to  
11 the order of reports of standing committees.  
12 I believe that there is a report of the Rules  
13 Committee at the desk and I move that we  
14 accept the report of the Rules Committee after  
15 it has been read.

16 ACTING PRESIDENT MEIER: The  
17 Secretary will read the report of the Rules  
18 Committee.

19 THE SECRETARY: Senator Bruno,  
20 from the Committee on Rules, reports the  
21 following bills:

22 Senate Print 6989-A, by Senator  
23 Hannon, an act to amend the Public Health Law;  
24 7249-A, by Senator Present, an  
25 act to amend the Alcoholic Beverage Control

1 Law;  
2 7369-A, by Senator Seward, an  
3 act to amend the Tax Law;  
4 7428, by Senator Marchi, an act  
5 to amend the Education Law;  
6 7483-A, by Senator Holland, an  
7 act to amend Chapter 436 of the Laws of 1997;  
8 7535-A, by Senator Stafford, an  
9 act to amend the Tax Law;  
10 7551, by Senator Libous, an act  
11 to confer jurisdiction;  
12 7592, by Senator Holland, an  
13 act to amend the Social Services Law;  
14 7600, by Senator Marcellino, an  
15 act to amend the Environmental Conservation  
16 Law;  
17 7647, by Senator Kuhl, an act  
18 to amend the Agriculture and Markets Law;  
19 7660, by Senator Present, an  
20 act to amend the Penal law and the Real  
21 Property Actions and Proceedings Law;  
22 7680-A, by Senator Bruno, an  
23 act to authorize the New York State Urban  
24 Development Corporation;  
25 7686, by Senator Holland, an

1 act to amend the Public Authorities Law;  
2 7699-A, by Senator Hannon, an  
3 act to amend the New York State Medical Care  
4 Facilities Finance Agency Act;  
5 7703, by Senator Lack, an act  
6 to amend the Real Property Law;  
7 7715, by Senator Skelos, an act  
8 to amend the Election Law;  
9 7721, by Senator Meier, an act  
10 authorizing the Commissioner of General  
11 Services;  
12 7722, by Senator Seward, an act  
13 to amend the Economic Development Law;  
14 7724, by Senator Holland, an  
15 act to amend the Education Law;  
16 7731, by Senator Balboni, an  
17 act to amend the Economic Development Law;  
18 7737, by Senator Present, an  
19 act to amend the Education Law;  
20 7743, by the Senate Committee  
21 on Rules, an act to amend Chapter 552 of the  
22 Laws of 1995;  
23 7753, by Senator Larkin, an act  
24 to amend the Public Authorities Law;  
25 7768, by the Senate Committee

1 on Rules, an act to amend the Tax Law; and  
2 7734, by Senator Spano, an act  
3 to amend the Labor Law.

4 All bills ordered direct for  
5 third reading.

6 SENATOR KUHL: I move we accept  
7 the report of the Rules Committee.

8 ACTING PRESIDENT MEIER: All  
9 those in favor of accepting the report of the  
10 Rules Committee signify by saying aye.

11 (Response of "Aye".)

12 Opposed, nay.

13 (There was no response.)

14 The report of the Rules  
15 Committee is accepted.

16 Senator Kuhl.

17 SENATOR KUHL: Yes, Mr.  
18 President. I believe for the benefit of the  
19 members who are here and who are not here, we  
20 have an active list on the desk and also a  
21 calendar which is being passed out, Senate  
22 Supplemental Calendar Number 52-A, and at this  
23 time if we might take up the non-controversial  
24 reading of the supplemental active list, but  
25 before we do that -

1                   ACTING PRESIDENT MEIER:

2           Senator Kuhl.

3                   SENATOR KUHL:  -- if we might  
4           move to motions and resolutions, and I would,  
5           Mr. President, on behalf of Senator Saland,  
6           call up his bill, Senate Print 816-A, recalled  
7           from the Assembly, which is at the desk.

8                   ACTING PRESIDENT MEIER:  The  
9           Secretary will read.

10                   THE SECRETARY:  Calendar Number  
11           139, by Senator Saland, Senate Print 816-A, an  
12           act to amend the Penal Law.

13                   SENATOR KUHL:  Mr. President, I  
14           now move to reconsider the vote by which the  
15           bill passed the house.

16                   ACTING PRESIDENT MEIER:  Call  
17           the roll.

18                   (The Secretary called the roll  
19           on reconsideration.)

20                   THE SECRETARY:  Ayes 61.

21                   SENATOR KUHL:  I offer up the  
22           following amendments.

23                   ACTING PRESIDENT MEIER:  The  
24           amendments are received.

25                   SENATOR KUHL:  Mr. President.

1                   ACTING PRESIDENT MEIER:

2       Senator Kuhl.

3                   SENATOR KUHL:  If we may now  
4       have a reading of the non-controversial  
5       calendar, the supplemental active list which  
6       begins with Calendar Number 347.

7                   ACTING PRESIDENT MEIER:  The  
8       Secretary will read the non-controversial  
9       calendar from the supplemental active list.

10                  SENATOR LEICHTER:  Excuse me,  
11       Mr. President.

12                  ACTING PRESIDENT MEIER:  
13       Senator Leichter.

14                  SENATOR LEICHTER:  Before we do  
15       that, have the bills been put on our desks,  
16       Senator Kuhl, or could we wait 'til we get the  
17       bills?

18                  ACTING PRESIDENT MEIER:  
19       Senator Leichter, I'm informed -- Senator  
20       Leichter, I'm informed that the bills are on  
21       the desk.

22                  SENATOR LEICHTER:  They said  
23       they're in the book.

24                  ACTING PRESIDENT MEIER:  The  
25       Secretary will read.

1 THE SECRETARY: Calendar Number  
2 347, by the Assembly Committee on Rules,  
3 Assembly Print 8148-D, an act to amend the  
4 General Business Law, in relation to  
5 providing.

6 SENATOR OPPENHEIMER: Lay it  
7 aside, please.

8 ACTING PRESIDENT MEIER: Lay  
9 the bill aside.

10 THE SECRETARY: Calendar Number  
11 712, by Senator Leibell, Senate Print 6543, an  
12 act to amend the Real Property Law, in  
13 relation to manufactured home parks.

14 ACTING PRESIDENT MEIER: Read  
15 the last section.

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

18 ACTING PRESIDENT MEIER: Call  
19 the roll.

20 (The Secretary called the  
21 roll.)

22 THE SECRETARY: Ayes 61.

23 ACTING PRESIDENT MEIER: The  
24 bill is passed.

25 THE SECRETARY: Calendar Number

1 735, by Senator Wright, Senate Print 6649, an  
2 act to amend the Mental Hygiene Law and  
3 others, in relation to the provision.

4 ACTING PRESIDENT MEIER: Read  
5 the last section.

6 THE SECRETARY: Section 28.  
7 This act shall take effect immediately.

8 ACTING PRESIDENT MEIER: Call  
9 the roll.

10 (The Secretary called the  
11 roll.)

12 THE SECRETARY: Ayes 61.

13 ACTING PRESIDENT MEIER: The  
14 bill is passed.

15 THE SECRETARY: Calendar Number  
16 830, by Senator Volker, Senate Print 3781, an  
17 act to amend the Criminal Procedure Law, in  
18 relation to interim probation supervision.

19 ACTING PRESIDENT MEIER: Read  
20 the last section.

21 SENATOR LEICHTER: Lay it  
22 aside.

23 ACTING PRESIDENT MEIER: Lay  
24 the bill aside.

25 THE SECRETARY: Calendar Number

1 1016, by member of the Assembly Sweeney,  
2 Assembly Print 9181, an act to amend the  
3 General Municipal Law and the Local Finance  
4 Law, in relation to making technical and  
5 clarifying amendments.

6 ACTING PRESIDENT MEIER: Read  
7 the last section.

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

10 ACTING PRESIDENT MEIER: Call  
11 the roll.

12 (The Secretary called the  
13 roll.)

14 THE SECRETARY: Ayes 61.

15 ACTING PRESIDENT MEIER: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 1017, by Senator LaValle, Senate Print 6138,  
19 an act to amend the General Municipal Law and  
20 the Local Finance Law, in relation to  
21 authorizing defined benefit service award  
22 programs.

23 ACTING PRESIDENT MEIER: Read  
24 the last section.

25 THE SECRETARY: Section 7.

1 This act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call  
3 the roll.

4 (The Secretary called the  
5 roll.)

6 THE SECRETARY: Ayes 61.

7 ACTING PRESIDENT MEIER: The  
8 bill is passed.

9 THE SECRETARY: Calendar Number  
10 1047, by the Assembly Committee on Rules,  
11 Assembly Print 11124-A, an act to amend the  
12 Environmental Conservation Law, in relation to  
13 hazardous waste management facilities.

14 SENATOR STACHOWSKI: Lay it  
15 aside.

16 ACTING PRESIDENT MEIER: Lay  
17 the bill aside.

18 THE SECRETARY: Calendar Number  
19 1087, by Senator Marchi, Senate Print 6725, an  
20 act to amend the Tax Law and others, in  
21 relation to the payment of state collected  
22 taxes to certain public benefit corporations.

23 ACTING PRESIDENT MEIER: Read  
24 the last section.

25 THE SECRETARY: Section 6.

1                   SENATOR STACHOWSKI: Lay it  
2           aside.

3                   ACTING PRESIDENT MEIER: Lay  
4           the bill aside.

5                   THE SECRETARY: Calendar Number  
6           1279, by member of the Assembly Ortiz,  
7           Assembly Print 5968-A, an act directing the  
8           Commissioner of the Office of Children and  
9           Family Services to study the child care  
10          utilization patterns.

11                   ACTING PRESIDENT MEIER: Read  
12          the last section.

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

15                   ACTING PRESIDENT MEIER: Call  
16          the roll.

17                   (The Secretary called the  
18          roll.)

19                   THE SECRETARY: Ayes 61.

20                   ACTING PRESIDENT MEIER: The  
21          bill is passed.

22                   ACTING PRESIDENT MEIER:  
23          Senator Kuhl, this would bring us now to the  
24          supplemental calendar. That concluded the  
25          last calendar. You want us to proceed?

1           The Secretary will proceed with  
2           the non-controversial portion of the  
3           supplemental calendar.

4           THE SECRETARY: Calendar Number  
5           1435, by Senator Lack, Senate Print 3056, an  
6           act to amend the General Municipal Law, in  
7           relation to giving municipalities the power to  
8           prefer bidders.

9           ACTING PRESIDENT MEIER: Read  
10          the last section.

11          THE SECRETARY: Section 2.  
12          This act shall take effect on the 30th day.

13          ACTING PRESIDENT MEIER: Call  
14          the roll.

15          (The Secretary called the  
16          roll.)

17          SENATOR GOLD: Mr. President.

18          ACTING PRESIDENT MEIER:  
19          Senator Gold, why do you rise?

20          SENATOR GOLD: Yeah. I would  
21          just like to briefly explain my vote.

22          Just to Senator Lack, in case  
23          this is not agreed upon or in case they want  
24          to amend it, I made the point in committee and  
25          I was quite serious, this bill, as I read it,

1 talks about the political subdivision.

2 In an area such as Huntington,  
3 if you were dealing with a water district,  
4 they have ten water districts and you can have  
5 somebody very active in the county who's two  
6 blocks out of the water district, you may want  
7 to help them and the way I read this bill,  
8 they would be disqualified to get the benefit.

9 So perhaps Senator Lack on  
10 another print may want to make it instead of  
11 the district, the county or the city and give  
12 it a little more geographic latitude. I  
13 certainly don't oppose the idea and I would  
14 vote in the affirmative.

15 ACTING PRESIDENT MEIER:  
16 Senator Gold will be recorded in the  
17 affirmative.

18 THE SECRETARY: Ayes 61.

19 ACTING PRESIDENT MEIER: The  
20 bill is passed.

21 THE SECRETARY: Calendar Number  
22 1437, by the Assembly Committee on Rules,  
23 Assembly Print 11217, an act to amend the  
24 Banking Law, in relation to the deposit.

25 ACTING PRESIDENT MEIER: Read

1 the last section.

2 THE SECRETARY: Section 2.

3 This act shall take effect immediately.

4 ACTING PRESIDENT MEIER: Call  
5 the roll.

6 (The Secretary called the  
7 roll.)

8 THE SECRETARY: Ayes 61.

9 ACTING PRESIDENT MEIER: The  
10 bill is passed.

11 THE SECRETARY: Calendar Number  
12 1438, by Senator Seabrook, Senate Print 5542,  
13 an act authorizing the city of New York to  
14 reconvey its interest in certain real  
15 property.

16 ACTING PRESIDENT MEIER: Read  
17 the last section.

18 THE SECRETARY: Section 5.

19 This act shall take effect immediately.

20 ACTING PRESIDENT MEIER: Call  
21 the roll -- there is a home rule message at  
22 the desk. Read the last section -- I'm sorry  
23 -- call the roll.

24 (The Secretary called the  
25 roll.)

1 THE SECRETARY: Ayes 61.

2 ACTING PRESIDENT MEIER: The  
3 bill is passed.

4 THE SECRETARY: Calendar Number  
5 1441, by Senator Lachman, Senate Print 6045,  
6 an act authorizing the city of New York to  
7 reconvey its interest in certain real  
8 property.

9 ACTING PRESIDENT MEIER:  
10 There's a home rule message at the desk. Read  
11 the last section.

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

14 ACTING PRESIDENT MEIER: Call  
15 the roll.

16 (The Secretary called the  
17 roll.)

18 THE SECRETARY: Ayes 61.

19 ACTING PRESIDENT MEIER: The  
20 bill is passed.

21 THE SECRETARY: Calendar Number  
22 1442, by Senator Johnson, Senate Print 6213-A,  
23 an act to amend the Not-for-Profit Corporation  
24 Law and others, in relation -- in relation to  
25 combinations.

1                   ACTING PRESIDENT MEIER: Read  
2                   the last section.  
3                   THE SECRETARY: Section 16.  
4                   This act shall take effect in 30 days.  
5                   ACTING PRESIDENT MEIER: Call  
6                   the roll.  
7                   (The Secretary called the  
8                   roll.)  
9                   THE SECRETARY: Ayes 61.  
10                  ACTING PRESIDENT MEIER: The  
11                  bill is passed.  
12                  THE SECRETARY: Calendar Number  
13                  1444 -  
14                  SENATOR STACHOWSKI: Excuse me.  
15                  ACTING PRESIDENT MEIER:  
16                  Senator Stachowski.  
17                  SENATOR STACHOWSKI: 1442,  
18                  could I be recorded in the negative, please.  
19                  ACTING PRESIDENT MEIER:  
20                  Without objection, Senator -  
21                  SENATOR KUHL: No objection.  
22                  ACTING PRESIDENT MEIER:  
23                  Without objection, Senator Stachowski will be  
24                  recorded in the negative on Calendar 1442.  
25                  The Secretary will continue to

1 read -- I'm sorry. Senator Dollinger.

2 SENATOR DOLLINGER: May I be  
3 recorded in the negative on Calendar Number  
4 1442 as well.

5 ACTING PRESIDENT MEIER:  
6 Without objection, Senator Dollinger will be  
7 recorded in the negative on Calendar 1442.

8 The Secretary will continue to  
9 read.

10 THE SECRETARY: Calendar Number  
11 1444, by Senator Lack, Senate Print 6607-A, an  
12 act to amend the Real Property Law, in  
13 relation to real estate agency disclosure.

14 ACTING PRESIDENT MEIER: Read  
15 the last section.

16 THE SECRETARY: Section 2.  
17 This act shall take effect January 1.

18 ACTING PRESIDENT MEIER: Call  
19 the roll.

20 ACTING PRESIDENT MEIER:  
21 Senator Rath.

22 SENATOR RATH: Mr. Chairman, I  
23 think I was a bit delayed in voting no on  
24 1442. If I could be recorded in the  
25 negative. I was in the -

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ACTING PRESIDENT MEIER:

Senator Rath, if we may, we've got a roll call and then we'll get right to you.

The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Rath.

SENATOR RATH: I'm sorry, Mr. Chairman. I think I was a little slow in getting my vote recorded in the negative on 1442.

Thank you.

ACTING PRESIDENT MEIER:

Without objection, Senator Rath will be recorded in the negative on Calendar 1442.

Senator Nanula.

SENATOR NANULA: Thank you, Mr. President.

I too was out of the chamber for the roll call on Calendar Number 1442. I would like to request unanimous consent to be

1 recorded in the negative.

2 ACTING PRESIDENT MEIER:

3 Without objection, you'll be recorded in the  
4 negative on Calendar 1442.

5 The Secretary will continue to  
6 read.

7 THE SECRETARY: Calendar Number  
8 1445 -

9 SENATOR GOLD: Lay it aside,  
10 please.

11 ACTING PRESIDENT MEIER: Lay  
12 the bill aside.

13 THE SECRETARY: Calendar Number  
14 1447, by Senator Hannon, Senate Print 6989-A,  
15 an act to amend the Public Health Law, the New  
16 York State Medical Care Facilities Finance  
17 Agency Act and the Public Authorities Law.

18 ACTING PRESIDENT MEIER: Read  
19 the last section.

20 THE SECRETARY: Section 40.  
21 This act shall take effect immediately.

22 ACTING PRESIDENT MEIER: Call  
23 the roll.

24 (The Secretary called the  
25 roll.)

1 THE SECRETARY: Ayes 61.

2 ACTING PRESIDENT MEIER: The  
3 bill is passed.

4 THE SECRETARY: Calendar Number  
5 1448, by Senator Present, Senate Print 7...

6 SENATOR OPPENHEIMER: Lay it  
7 aside.

8 ACTING PRESIDENT MEIER: Lay  
9 the bill aside.

10 THE SECRETARY: Calendar Number  
11 1449, by Senator Seward, Senate Print 7369-A,  
12 an act to amend the Tax Law, in relation to  
13 the franchise tax.

14 SENATOR LEICHTER: Lay it  
15 aside.

16 ACTING PRESIDENT MEIER: Lay  
17 the bill aside.

18 THE SECRETARY: In relation to  
19 Calendar Number 1450, Senator Marchi moves to  
20 discharge from the Committee on Rules Assembly  
21 Bill Number 10786 and substitute it for the  
22 identical Third Reading Calendar 1450.

23 ACTING PRESIDENT MEIER: The  
24 substitution is ordered. The Secretary will  
25 read.

1 THE SECRETARY: Calendar Number  
2 1450, by the Assembly Committee on Rules,  
3 Assembly Print 10786, an act to amend the  
4 Education Law, in relation to the prompt  
5 payment.

6 ACTING PRESIDENT MEIER: Read  
7 the last section.

8 THE SECRETARY: Section 2.  
9 This act shall take effect in 30 days.

10 ACTING PRESIDENT MEIER: Call  
11 the roll.

12 (The Secretary called the  
13 roll.)

14 THE SECRETARY: Ayes 61.

15 ACTING PRESIDENT MEIER: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 1452, by Senator Stafford, Senate Print  
19 7535-A, an act to amend the Tax Law, in  
20 relation to eliminating the depends tax on  
21 assets.

22 ACTING PRESIDENT MEIER: Read  
23 the last section.

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

1                   ACTING PRESIDENT MEIER: Call  
2                   the roll.

3                   (The Secretary called the  
4                   roll.)

5                   THE SECRETARY: Ayes 61.

6                   ACTING PRESIDENT MEIER: The  
7                   bill is passed.

8                   THE SECRETARY: Calendar Number  
9                   1453, by Senator Libous, Senate Print 7551, an  
10                  act to confer jurisdiction upon the Court of  
11                  Claims to hear, audit and determine.

12                  ACTING PRESIDENT MEIER: Read  
13                  the last section.

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

16                  ACTING PRESIDENT MEIER: Call  
17                  the roll.

18                  (The Secretary called the  
19                  roll.)

20                  THE SECRETARY: Ayes 59, nays  
21                  2, Senators Dollinger and Saland recorded in  
22                  the negative.

23                  ACTING PRESIDENT MEIER: The  
24                  bill is passed.

25                  THE SECRETARY: Calendar Number

1 1454, by Senator Holland, Senate Print 7592,  
2 an act to amend the Social Services Law, in  
3 relation to county responsibility.

4 ACTING PRESIDENT MEIER: Read  
5 the last section.

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

8 ACTING PRESIDENT MEIER: Call  
9 the roll.

10 (The Secretary called the  
11 roll.)

12 THE SECRETARY: Ayes 61.

13 ACTING PRESIDENT MEIER: The  
14 bill is passed.

15 THE SECRETARY: Calendar Number  
16 1455, by Senator Marcellino, Senate Print  
17 7600, an act to amend the Environmental  
18 Conservation Law, in relation to increasing  
19 criminal sanctions.

20 ACTING PRESIDENT MEIER: Read  
21 the last section.

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

25 ACTING PRESIDENT MEIER: Call

1 the roll.

2 (The Secretary called the  
3 roll.)

4 THE SECRETARY: Ayes 61.

5 ACTING PRESIDENT MEIER: The  
6 bill is passed.

7 THE SECRETARY: Calendar Number  
8 1456, by Senator Kuhl, Senate Print 7647, an  
9 act to amend the Agriculture and Markets Law,  
10 in relation to persons exempt from certain  
11 regulation.

12 ACTING PRESIDENT MEIER: Read  
13 the last section.

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

16 ACTING PRESIDENT MEIER: Call  
17 the roll.

18 (The Secretary called the  
19 roll.)

20 THE SECRETARY: Ayes 61.

21 ACTING PRESIDENT MEIER: The  
22 bill is passed.

23 THE SECRETARY: Calendar Number  
24 1457, by Senator Present, Senate Print 7660,  
25 an act to amend the Penal Law and the Real

1 Property Actions and Proceedings Law, in  
2 relation to the criminal sale of controlled  
3 substances.

4 ACTING PRESIDENT MEIER: Read  
5 the last section.

6 THE SECRETARY: Section 10.  
7 This act shall take effect immediately.

8 ACTING PRESIDENT MEIER: Call  
9 the roll.

10 (The Secretary called the  
11 roll.)

12 THE SECRETARY: Ayes 61.

13 ACTING PRESIDENT MEIER: The  
14 bill is passed.

15 THE SECRETARY: Calendar Number  
16 1458, by Senator Bruno, Senate Print 7680-A,  
17 an act to authorize the New York State Urban  
18 Development Corporation to utilize certain  
19 funds.

20 ACTING PRESIDENT MEIER:  
21 Senator Kuhl.

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

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

1                   SENATOR KUHL: I move we accept  
2                   the message.

3                   ACTING PRESIDENT MEIER: All  
4                   those in favor of accepting the message of  
5                   necessity signify by saying aye.

6                   (Response of "Aye".)

7                   Opposed, nay.

8                   (There was no response.)

9                   The message of necessity is  
10                  accepted. There is also a home rule message  
11                  at the desk.

12                  SENATOR KUHL: Read the last  
13                  section.

14                  ACTING PRESIDENT MEIER: Read  
15                  the last section -- to correct the record,  
16                  there is not a home rule message on this.  
17                  Read the last section.

18                  THE SECRETARY: Section 7.  
19                  This act shall take effect immediately.

20                  ACTING PRESIDENT MEIER: Call  
21                  the roll.

22                  (The Secretary called the  
23                  roll.)

24                  THE SECRETARY: Ayes 61.

25                  ACTING PRESIDENT MEIER: The

1 bill is passed.

2 THE SECRETARY: Calendar Number  
3 1459, by Senator Holland, Senate Print 7686,  
4 an act to amend the Public Authorities Law.

5 ACTING PRESIDENT MEIER: Read  
6 the last section.

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

9 ACTING PRESIDENT MEIER: Call  
10 the roll.

11 (The Secretary called the  
12 roll.)

13 THE SECRETARY: Ayes 61.

14 ACTING PRESIDENT MEIER: The  
15 bill is passed.

16 SENATOR GOLD: Mr. President.

17 ACTING PRESIDENT MEIER:  
18 Senator Gold.

19 SENATOR GOLD: Thank you.

20 Mr. President, I laid aside  
21 1445. I don't have an objection. If you want  
22 to call it up, it can pass.

23 SENATOR KUHL: Call up 1445,  
24 please.

25 ACTING PRESIDENT MEIER: The

1 Secretary will read Calendar 1445.

2 THE SECRETARY: Calendar Number  
3 1445, by Senator Hannon, Senate Print 6711-B,  
4 an act to amend the State Finance Law, in  
5 relation to damages for delay clauses.

6 ACTING PRESIDENT MEIER: Read  
7 the last section.

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

11 ACTING PRESIDENT MEIER: Call  
12 the roll.

13 (The Secretary called the  
14 roll.)

15 THE SECRETARY: Ayes 61.

16 ACTING PRESIDENT MEIER: The  
17 bill is passed.

18 Senator DeFrancisco.

19 SENATOR DeFRANCISCO: I would  
20 just like to explain my vote.

21 I'm voting yes, but I'm a  
22 little bit confused by the bill memo and the  
23 intent of the legislation.

24 The bill memo talks about in  
25 the last decade public owners have come to

1 recognize the value of including  
2 non-exculpatory clauses in construction  
3 contracts. What I think is meant by that,  
4 clauses that basically say you can sue for  
5 delay damages.

6 My practice has been heavily  
7 involved in this type of litigation and I  
8 think the opposite is really true. The  
9 municipalities have no damages for delay  
10 clauses.

11 So the initial premise upon  
12 which this bill is done, I think is not a  
13 correct premise and rather than -- I think the  
14 intent of the bill, however, is to indicate  
15 circumstances where you can sue for delay  
16 damages and I don't want to get into too much  
17 detail, but that's certainly relief that's  
18 needed by the contractors.

19 The concern that I have,  
20 though, with the bill, it just talks about all  
21 these exceptions where you can sue for  
22 excusable delay and it lists what it is. I  
23 would hope that it doesn't mean -- and I take  
24 it to not mean that you can't sue for other  
25 damages for delay. It would seem that you

1           should be able to sue for non-excusable delay  
2           more than excusable delay.  If there's an  
3           excuse, you shouldn't be able to sue, but in  
4           any event, the point is I don't think the bill  
5           memo is correct in its premise.  I take this  
6           bill to mean to expand the rights to litigate  
7           when the town or village or municipality is at  
8           fault and that's why I'm voting yes.

9                            ACTING PRESIDENT MEIER:  
10           Senator DeFrancisco will be recorded in the  
11           affirmative.

12                           The Secretary will continue to  
13           read in regular order.

14                           SENATOR GOLD:  Mr. President.

15                           ACTING PRESIDENT MEIER:  I'm  
16           sorry.  Senator Abate.

17                           SENATOR ABATE:  Yes.  On  
18           Calendar Number 1453, I would like to be  
19           recorded in the negative.

20                           ACTING PRESIDENT MEIER:  
21           Without objection, Senator Abate will be  
22           recorded in the negative on Calendar 14...

23                           SENATOR KUHL:  Mr. President, I  
24           don't think you finished the roll call first.  
25           Could we do that first and then you can take

1           some votes.

2                    ACTING PRESIDENT MEIER: We did  
3 finish the roll call, Senator.

4                    SENATOR KUHL: Okay. I don't  
5 think you announced the results, did you?

6                    ACTING PRESIDENT MEIER: Yes, I  
7 did. The bill is passed.

8                    Senator Abate, without  
9 objection, will be recorded in the negative on  
10 Calendar 1453.

11                   The Secretary will continue to  
12 read in regular order.

13                   THE SECRETARY: Calendar Number  
14 1462, by Senator Skelos, Senate Print 7715, an  
15 act to amend the Election Law, in relation to  
16 the appointment of a commissioner.

17                   ACTING PRESIDENT MEIER: Read  
18 the last section.

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

21                   ACTING PRESIDENT MEIER: Call  
22 the roll.

23                   (The Secretary called the  
24 roll.)

25                   THE SECRETARY: Ayes 61.

1                   ACTING PRESIDENT MEIER: The  
2 bill is passed.

3                   The Secretary will read  
4 Calendar 1461.

5                   THE SECRETARY: Calendar Number  
6 1461, by Senator Lack, Senate Print 7703, an  
7 act to amend the Real Property Law, in  
8 relation to computer-based real estate  
9 continuing education classes.

10                  ACTING PRESIDENT MEIER: Read  
11 the last section.

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

14                  ACTING PRESIDENT MEIER: Call  
15 the roll.

16                  (The Secretary called the  
17 roll.)

18                  THE SECRETARY: Ayes 61.

19                  ACTING PRESIDENT MEIER: The  
20 bill is passed.

21                  THE SECRETARY: Calendar Number  
22 1463, by Senator Meier, Senate Print 7721, an  
23 act authorizing the Commissioner of General  
24 Services to transfer and convey.

25                  ACTING PRESIDENT MEIER: Read

1 the last section.

2 THE SECRETARY: Section 6.

3 This act shall take effect immediately.

4 ACTING PRESIDENT MEIER: Call

5 the roll.

6 (The Secretary called the

7 roll.)

8 THE SECRETARY: Ayes 61.

9 ACTING PRESIDENT MEIER: The  
10 bill is passed.

11 THE SECRETARY: Calendar Number  
12 1465, by Senator Holland, Senate Print 7724,  
13 an act to amend the Education Law, in relation  
14 to the handling and treatment of pupils  
15 afflicted with asthma.

16 ACTING PRESIDENT MEIER: Read  
17 the last section.

18 THE SECRETARY: Section 2.

19 This act shall take effect on the 120th day.

20 ACTING PRESIDENT MEIER: Call

21 the roll.

22 (The Secretary called the

23 roll.)

24 THE SECRETARY: Ayes 61.

25 ACTING PRESIDENT MEIER: The

1 bill is passed.

2 THE SECRETARY: Calendar Number  
3 1467, by Senator Present, Senate Print 7737,  
4 an act to amend the Education Law, in relation  
5 to the lease of school buses.

6 ACTING PRESIDENT MEIER: Read  
7 the last section.

8 THE SECRETARY: Section 7.  
9 This act shall take effect September 1.

10 ACTING PRESIDENT MEIER: Call  
11 the roll.

12 (The Secretary called the  
13 roll.)

14 THE SECRETARY: Ayes 61.

15 ACTING PRESIDENT MEIER: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 1468, by the Senate Committee on Rules, Senate  
19 Print 7743, an act to amend Chapter 552 of the  
20 Laws of 1995.

21 ACTING PRESIDENT MEIER: Read  
22 the last section.

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

25 ACTING PRESIDENT MEIER: Call

1 the roll.

2 (The Secretary called the  
3 roll.)

4 THE SECRETARY: Ayes 61.

5 ACTING PRESIDENT MEIER: The  
6 bill is passed.

7 THE SECRETARY: Calendar Number  
8 1473, by Senator Spano, Senate Print 7734, an  
9 act to amend the Labor Law.

10 SENATOR KUHL: Lay the bill  
11 aside.

12 ACTING PRESIDENT MEIER:  
13 Senator Kuhl, that completes the  
14 non-controversial calendar.

15 SENATOR VOLKER: Mr. President.

16 ACTING PRESIDENT MEIER:  
17 Senator Volker.

18 SENATOR VOLKER: Mr. President,  
19 for the first time in two years, I would like  
20 to make a request for unanimous consent to be  
21 recorded in the negative on Calendar Number  
22 1442, by Senator Johnson, on page 2, Senate  
23 Print 6213-A.

24 ACTING PRESIDENT MEIER:  
25 Without objection, Senator Volker will be

1 recorded in the negative on Calendar Number  
2 1442.

3 Senator Kuhl.

4 SENATOR KUHL: Yes, Mr.

5 President. May we now take up the  
6 controversial calendar after you recognize  
7 Senator Breslin.

8 ACTING PRESIDENT MEIER: Yes.

9 Senator Breslin.

10 SENATOR BRESLIN: Mr.

11 President, I request to be recorded in the  
12 negative on 1453 with unanimous consent.

13 ACTING PRESIDENT MEIER:

14 Without objection, Senator Breslin will be  
15 recorded in the negative on Calendar 1453.

16 The Secretary will read the  
17 controversial calendar.

18 THE SECRETARY: Calendar Number  
19 347, by the Assembly Committee on Rules,  
20 Assembly Print 8148-D, an act to amend the  
21 General Business Law, in relation to providing  
22 for the regulation.

23 ACTING PRESIDENT MEIER: Read  
24 the last section.

25 THE SECRETARY: Section 5.

1 This act shall take effect on the first day of  
2 January.

3 ACTING PRESIDENT MEIER: Call  
4 the roll.

5 (The Secretary called the  
6 roll.)

7 THE SECRETARY: Ayes 61.

8 ACTING PRESIDENT MEIER: The  
9 bill is passed.

10 THE SECRETARY: Calendar Number  
11 830, by Senator Volker, Senate Print 3781, an  
12 act to amend the Criminal Procedure Law, in  
13 relation to interim probation supervision.

14 SENATOR LEICHTER: Can we have  
15 an explanation, please.

16 ACTING PRESIDENT MEIER:  
17 Senator Volker, an explanation has been  
18 requested by Senator Leichter.

19 SENATOR VOLKER: This is a bill  
20 that came from -- actually came from the OCA  
21 and it is not a regular criminal justice bill  
22 and it authorizes the court to place a  
23 defendant on interim supervision.

24 SENATOR LEICHTER: Explanation  
25 satisfactory.

1                   SENATOR VOLKER:   Okay.   Thank  
2                   you.

3                   ACTING PRESIDENT MEIER:   Read  
4                   the last section.

5                   THE SECRETARY:   Section 2.  
6                   This act shall take effect in 90 days.

7                   ACTING PRESIDENT MEIER:   Call  
8                   the roll.

9                   (The Secretary called the  
10                  roll.)

11                  THE SECRETARY:   Ayes 61.

12                  ACTING PRESIDENT MEIER:   The  
13                  bill is passed.

14                  THE SECRETARY:   Calendar Number  
15                  1047, by the Assembly Committee on Rules,  
16                  Assembly Print 11124-A, an act to amend the  
17                  Environmental Conservation Law, in relation to  
18                  hazardous waste management facilities.

19                  ACTING PRESIDENT MEIER:   Read  
20                  the last section.

21                  SENATOR OPPENHEIMER:  
22                  Explanation.

23                  ACTING PRESIDENT MEIER:  
24                  Senator Marcellino, an explanation has been -

25                  SENATOR OPPENHEIMER:   No.   If

1       you recognize me.

2                   ACTING PRESIDENT MEIER:

3       Senator Oppenheimer.

4                   SENATOR OPPENHEIMER: I got an  
5       explanation already from Senator Marcellino  
6       and it's very satisfactory, so I will be  
7       voting for the bill.

8                   ACTING PRESIDENT MEIER: Read  
9       the last section.

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

12                  ACTING PRESIDENT MEIER: Call  
13       the roll.

14                               (The Secretary called the  
15       roll.)

16                  THE SECRETARY: Ayes 61.

17                  ACTING PRESIDENT MEIER: The  
18       bill is passed.

19                  THE SECRETARY: Calendar Number  
20       1087, by Senator Marchi, Senate Print 6725, an  
21       act to amend the Tax Law and others, in  
22       relation to the payment of state collected  
23       taxes.

24                  ACTING PRESIDENT MEIER: Read  
25       the last section.

1 THE SECRETARY: Section 6.

2 This act shall take effect immediately.

3 ACTING PRESIDENT MEIER: Call  
4 the roll.

5 (The Secretary called the  
6 roll.)

7 THE SECRETARY: Ayes 61.

8 ACTING PRESIDENT MEIER: The  
9 bill is passed.

10 THE SECRETARY: Calendar Number  
11 1448, by Senator Present, Senate Print 7249-A,  
12 an act to amend the Alcoholic Beverage Control  
13 Law, in relation to restaurant brewer  
14 licenses.

15 SENATOR LEICHTER: Explanation,  
16 please.

17 ACTING PRESIDENT MEIER:  
18 Senator Present, an explanation has been  
19 requested of Calendar 1448 by Senator  
20 Stachowski.

21 SENATOR PRESENT: Mr.  
22 President, in 1997 we created a special  
23 license for microbrewers and we sort of cut  
24 out current restaurant owners.

25 This bill would allow

1 restaurant owners to apply for such a license  
2 and if they manufacture or brew only 20,000 or  
3 less barrels a year. So it corrects an  
4 inequity in the law. These microbreweries and  
5 small brewery restaurants have been doing  
6 well. They're occupying vacant spaces in many  
7 communities, in run-down areas, in abandoned  
8 industrial areas. It creates the economy of  
9 the state. It creates jobs and makes it fair  
10 practice for those engaged in that business.

11 ACTING PRESIDENT MEIER:

12 Senator Stachowski.

13 SENATOR STACHOWSKI: Will  
14 Senator Present yield for a couple of  
15 questions?

16 ACTING PRESIDENT MEIER:

17 Senator, do you yield to a question?

18 SENATOR PRESENT: Yes, I will.

19 ACTING PRESIDENT MEIER: The  
20 sponsor yields.

21 SENATOR STACHOWSKI: Senator,  
22 in a memo, the New York State Beer Wholesalers  
23 Association have some opposition to this bill,  
24 claiming that, for one, it's an unjustified  
25 exception to New York's tight held statute and

1           they cite that this law which is embodied in  
2           Section 101 of the ABC Law prohibits  
3           manufacturers from being interested in retail  
4           accounts. They're claiming this prohibition  
5           -- that this exception is unnecessary and  
6           they're afraid of possible problems that they  
7           might run into if different kinds of companies  
8           start owning brew pubs.

9                            SENATOR PRESENT: Do you agree  
10           with that?

11                           SENATOR STACHOWSKI: I'm asking  
12           you the question. Do you think that's a real  
13           problem?

14                           SENATOR PRESENT: No, I don't  
15           agree with that lobbyist memorandum. You  
16           apparently do. You're raising the question.  
17           You know, that's business in New York State,  
18           competitive business.

19                           SENATOR STACHOWSKI: Thanks.  
20           That's the only question I had.

21                           SENATOR PRESENT: Last section.

22                           SENATOR STACHOWSKI: On the  
23           bill.

24                           ACTING PRESIDENT MEIER:  
25           Senator Stachowski, on the bill.

1                   SENATOR STACHOWSKI:  As much as  
2           I respect my dear friend Senator Present and  
3           as much as I know that brew pubs are a good  
4           business, I do kind of agree with the problem  
5           that they're citing.  I don't know that we  
6           want to have these -- I can understand that  
7           the brew pub that is -- some of them are  
8           restaurants but to have brew pubs owning  
9           separate restaurants and restaurants then  
10          buying -- opening up brew pubs, I don't know  
11          that that's what we want to get into and  
12          there's a concern, I guess, lying even deeper  
13          that next thing you know some of the larger  
14          beer people, for example, Coors would open up  
15          a microbrew place and the next thing you know  
16          they would be running their business out of  
17          that in the locality and eliminating the beer  
18          wholesaler.

19                    So that's the real problem that  
20          they face down the road that they're talking  
21          about and whether it's real or not, I don't  
22          know, but I know some small beer wholesalers  
23          and I really don't want to put them out of  
24          business.

25                    So I'm going to oppose this

1 even though I don't blame Senator Present for  
2 pushing it.

3 ACTING PRESIDENT MEIER: Read  
4 the last section.

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

7 ACTING PRESIDENT MEIER: Call  
8 the roll.

9 (The Secretary called the  
10 roll.)

11 THE SECRETARY: Those recorded  
12 in the negative on Calendar Number 1448 are  
13 Senators Connor, Paterson, Sampson, Smith and  
14 Stachowski. Ayes 56, nays 5.

15 ACTING PRESIDENT MEIER: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 1449, by Senator Seward, Senate Print 7369-A,  
19 an act to amend the Tax Law, in relation to  
20 the franchise tax on certain utilities.

21 SENATOR LEICHTER: Explanation.

22 ACTING PRESIDENT MEIER:  
23 Senator Seward, an explanation has been  
24 requested of Calendar Number 1449 by Senator  
25 Leichter.

1                   SENATOR SEWARD: Certainly, Mr.  
2           President. This legislation deals with a  
3           portion of the gross receipts tax and as we  
4           all know and we've discussed many times in  
5           this chamber, there is a four and a half  
6           percent gross receipts tax that is imposed on  
7           our utility bills and even though in last  
8           year's budget we had begun to slowly bring  
9           down a portion of the gross receipts tax  
10          between now and the year 2000, the four and a  
11          half percent gross receipts tax is actually  
12          made up of three-quarters of a percent gross  
13          earnings tax imposed by Section 186 of the Tax  
14          Law and three and a half percent gross income  
15          tax imposed by Section 186 (a).

16                   Now, this legislation before us  
17          deals with that three-quarter percent of gross  
18          receipts tax. It amends Section 186 of the  
19          Tax Law to exempt the sales or resale by  
20          electricity, water, steam or gas corporation  
21          from the three-quarters of a percent gross  
22          receipts tax. Specifically the sales for  
23          resale would be exempted from the definitions  
24          of the gross earnings for the purposes of that  
25          section.

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Now, why is this important?

Under the traditional structure that we've had in our utilities and our electric industry in this state, it's been vertically integrated where the end sale to the ratepayer is when this tax is collected and under the vertically integrated arrangement we have had in this state, that tax is paid only once.

However, we are approaching a time when there will be true competition. We will see a number of new participants in the market here in New York State, a lot of marketers, brokers and energy service companies and we will be seeing the electricity sold and resold perhaps a number of times before getting to the end user and what this legislation seeks to do is to avoid the imposition of this tax every time one of those resales -- sales for resale take place, the tax would still be imposed on the end user.

So it will be paid once rather than a number of times will occur if we do not pass this legislation.

SENATOR LEICHTER: Mr.

1 President.

2 ACTING PRESIDENT MEIER:

3 Senator Leichter.

4 SENATOR LEICHTER: If Senator  
5 Seward would yield.

6 ACTING PRESIDENT MEIER:

7 Senator, will you yield for a question?

8 SENATOR SEWARD: Certainly.

9 ACTING PRESIDENT MEIER: The  
10 sponsor yields.

11 SENATOR LEICHTER: Senator, I  
12 think we all agree that the gross receipts tax  
13 is an unfortunate tax and our concern is, of  
14 course, primarily with the amounts that the  
15 consumer pays because the tax is passed on to  
16 the consumer, but I'm not clear with the  
17 exception that you make to the payment of the  
18 tax, how that's going to benefit the ultimate  
19 consumer, how it's going to reduce their tax  
20 bill.

21 SENATOR SEWARD: Well, very  
22 simply, Mr. President. The tax we're talking  
23 about, let's be clear here, is not paid by the  
24 utility involved, or the electric  
25 corporation. It is paid by the ratepayers.

1       These costs are passed on to the ratepayers  
2       and so absent this legislation being enacted  
3       into law, that ratepayer is going to be hit  
4       with a significant increase in the cost of  
5       their electricity because there will be  
6       additional tax imposed every time electricity  
7       is sold for resale.

8                       So we're just -- we're  
9       attempting to eliminate that tax hike and -  
10      which translates into a rate hike for the end  
11      user, the ratepayer of electricity.

12                      SENATOR LEICHTER:  If you'll  
13      continue to yield, Senator.

14                      ACTING PRESIDENT MEIER:  
15      Senator, do you continue to yield?  Senator  
16      Seward continues to yield.

17                      SENATOR LEICHTER:  I understand  
18      how the tax is paid by the ultimate consumer  
19      because under the current system the utility,  
20      as it sells the energy to a consumer, will  
21      tack on the gross receipts tax.  Now you have  
22      an instance where one utility sells to another  
23      utility which may then sell to the ultimate  
24      consumer.  Are you saying that as the gross  
25      receipts tax is presently administered and

1 structured that the consumer in that instance  
2 where there's a resale, that the gross  
3 receipts tax allows the pass-through to the  
4 consumer of the tax that is paid on the  
5 resale, let's say Con Edison sells to Niagara  
6 Mohawk. Niagara Mohawk then sells to a  
7 consumer, right? That's the situation you're  
8 envisaging, right?

9 SENATOR SEWARD: Yes. It could  
10 occur between utilities or electric companies,  
11 independent power producers.

12 SENATOR LEICHTER: I  
13 understand. Let's take my example.

14 SENATOR SEWARD: Right.

15 SENATOR LEICHTER: If I  
16 understand it. Niagara Mohawk sells to a  
17 consumer, charges the gross receipts tax, that  
18 tax we would like to eliminate it. Now we  
19 have Con Edison selling to Niagara Mohawk.  
20 Niagara Mohawk has to pay that gross receipts  
21 tax to Con Edison -- well, it pays as part of  
22 the overall bill the gross receipts tax,  
23 right?

24 SENATOR SEWARD: That's  
25 correct, sir.

1                   SENATOR LEICHTER: Now, Niagara  
2 Mohawk now sells electricity to the ultimate  
3 consumer. I'm not sure that under the law as  
4 it's administered that there would be any  
5 basis for it to charge to the consumer not  
6 just the ordinary gross receipts tax but also  
7 the amount of the tax that Niagara Mohawk paid  
8 to Con Ed -- paid on the purchase from Con  
9 Edison.

10                   SENATOR SEWARD: Well, Mr.  
11 President, Senator Leichter is mistaken. The  
12 end seller of the electricity is entitled to  
13 -- as a legitimate cost or adding to the rate  
14 that they charge the end user of electricity,  
15 they're entitled to pass through all of the  
16 taxes that they have paid.

17                   SENATOR LEICHTER: Okay.

18                   SENATOR SEWARD: That's one of  
19 the problems in the state of New York. Those  
20 taxes are too high. They'll be even higher if  
21 we don't enact this bill.

22                   SENATOR LEICHTER: Okay. So  
23 what you're saying, if I understand it,  
24 Senator -- in which case this certainly is a  
25 good bill -- that not only do they pass on the

1 gross receipts tax ordinarily paid by the  
2 consumer but that all other taxes that they  
3 may have paid including any other gross  
4 receipts tax that they may have paid on the  
5 purchase from another utility can be passed  
6 along to the ultimate user and that's what you  
7 seek to avoid.

8 SENATOR SEWARD: That is  
9 correct. In fact, it varies from utility to  
10 utility, but let's say on the average it's  
11 about 17 and 19 cents of every dollar we pay  
12 in our utility bill is some sort of tax that's  
13 been passed through to the end user and that  
14 will increase if we don't enact this bill.

15 SENATOR LEICHTER: Because  
16 there's going to be more resales of  
17 electricity.

18 SENATOR SEWARD: Exactly.

19 SENATOR LEICHTER: I  
20 understand. I thank you for your explanation.

21 SENATOR SEWARD: Thank you.  
22 Last section.

23 ACTING PRESIDENT MEIER: Read  
24 the last section.

25 THE SECRETARY: Section 2.

1 This act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call  
3 the roll.

4 (The Secretary called the  
5 roll.)

6 THE SECRETARY: Ayes 61.

7 ACTING PRESIDENT MEIER: The  
8 bill is passed.

9 For the information to the  
10 members, there will be another Rules Committee  
11 meeting called some time shortly and we will  
12 take up another Rules report this evening.

13 (Whereupon, the Senate stood at  
14 ease.)

15 ACTING PRESIDENT SPANO:  
16 Senator Larkin.

17 SENATOR LARKIN: Mr. President,  
18 there will be an immediate meeting of the  
19 Rules Committee in Room 332.

20 ACTING PRESIDENT SPANO:  
21 Immediate meeting of the Rules Committee in  
22 Room 332.

23 (Whereupon, the Senate stood at  
24 ease from 9:40 p.m. until 10:14 p.m.)

25 ACTING PRESIDENT MEIER: The

1 Senate will come to order, please.

2 Senator Kuhl.

3 SENATOR KUHL: Yes, Mr.

4 President.

5 May we return to the  
6 supplemental active list number 2 and Calendar  
7 Number 1473, could we have that bill read,  
8 please.

9 ACTING PRESIDENT MEIER:

10 Secretary will return to the supplemental  
11 active list and read Calendar Number 1473.

12 THE SECRETARY: Calendar Number  
13 1473, by Senator Spano, Senate Print 7734, an  
14 act to amend the Labor Law, in relation to  
15 unlawfully manufactured apparel.

16 ACTING PRESIDENT MEIER: Read  
17 the last section.

18 Senator Kuhl.

19 SENATOR KUHL: Yes. Mr.

20 President, is there a message at the desk?

21 ACTING PRESIDENT MEIER: Yes,  
22 there is.

23 SENATOR KUHL: I move we accept  
24 the message.

25 ACTING PRESIDENT MEIER: All

1 those in favor of accepting the message of  
2 necessity signify by saying aye.

3 (Response of "Aye.")

4 Opposed nay.

5 (There was no response.)

6 The message is accepted. Read  
7 the last section.

8 THE SECRETARY: Section 3.

9 This act shall take effect on the same date as  
10 the chapter of the laws of 1998.

11 ACTING PRESIDENT MEIER: Call  
12 the roll.

13 (The Secretary called the  
14 roll. )

15 THE SECRETARY: Ayes 61.

16 ACTING PRESIDENT MEIER: The  
17 bill is passed.

18 Senator Kuhl.

19 SENATOR KUHL: Yes. Now, Mr.

20 President, may we return to the order of  
21 reports of standing committees. I believe  
22 there's a report of the Rules Committee at the  
23 desk. I'd ask the Secretary to read it.

24 ACTING PRESIDENT MEIER:

25 Secretary will read the Rules Committee

1 report.

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

5 Senate bill 524-A, by Senator  
6 Present, an act to amend the Tax Law, in  
7 relation to the production of oil;

8 1342-C, by Senator Stafford, an  
9 act to amend the Family Court Act;

10 1774, by Senator Kuhl, an act  
11 to amend the Agriculture and Markets Law, in  
12 relation to the use of lands in agriculture;

13 3311-C, by Senator Goodman and  
14 others, an act to amend the Agriculture and  
15 Markets Law, in relation to aggravated  
16 cruelty;

17 3449-C, by Senator Marchi, an  
18 act to amend the Navigation Law;

19 4416, by Senator Skelos, an act  
20 to amend the Civil Practice Law and Rules;

21 5202-A, by Senator Nozzolio, an  
22 act to amend the Correction Law;

23 5439-A, by Senator Markowitz,  
24 an act authorizing the city of New York;

25 5703-A, by Senator Dollinger,

1 an act to amend the Railroad Law;

2 6046-A, by Senator Skelos, an  
3 act to amend the Navigation Law and the State  
4 Finance Law;

5 6155-A, by Senator Goodman and  
6 others, an act to amend the Local Finance Law,  
7 in relation to the sale of bonds;

8 6256-A, by Senator Goodman, an  
9 act to amend Chapter 115 of the Laws of 1995;

10 6491-A, by Senator Johnson, an  
11 act to amend the Lien Law;

12 6632-a, by Senator Marchi, an  
13 act authorizing the city of New York to  
14 reconvey;

15 6760, by Senator Meier, an act  
16 to amend the Family Court Act;

17 6769-A, by Senator Leibell, an  
18 act authorizing the town of Phillipstown;

19 6774-A, by Senator Alesi, an  
20 act to amend the Tax Law, in relation to the  
21 basis;

22 6829-A, by Senator Saland, an  
23 act authorizing the town of Claverack;

24 7361, by Senator Saland, an act  
25 to amend the Social Services Law;

1                   7572-A, by Senator Velella, an  
2                   an act to amend the Insurance Law;  
3                   7595-B, by Senator Alesi, an  
4                   act to amend the Local Finance Law;  
5                   7596-A, by Senator Alesi, an  
6                   act to authorize the city of Rochester;  
7                   7732, by Senator Balboni, an  
8                   act in relation to adjusting;  
9                   7733, by Senator Libous, an act  
10                  to amend Chapter 649 of the Laws of 1996;  
11                  7740, by Senator Padavan, an  
12                  act to amend the Education Law;  
13                  7742, by Senator Holland, an  
14                  act to authorize the sale of real property;  
15                  7762, by Senator Skelos, an act  
16                  authorizing the assessor of the county of  
17                  Nassau;  
18                  7764, by Senator Padavan, an  
19                  act to amend the Real Property Tax Law;  
20                  7766, by Senator Padavan, an  
21                  act to amend the Education Law;  
22                  7770, by Senator Libous and  
23                  others, an act to amend Chapter 723 of the  
24                  Laws of 1993;  
25                  7776, by Senator Goodman, an

1 act to amend the General Business Law;  
2 7783, by the Committee on  
3 Rules, an act to amend the Civil Service Law;  
4 7795, by the Committee on  
5 Rules, an act to amend the Insurance Law;  
6 7811, by Senator Velella, an  
7 act to amend the Vehicle and Traffic Law;  
8 7413, by Senator Stachowski, an  
9 act to amend the Penal Law.

10 All bills directly for third  
11 reading.

12 ACTING PRESIDENT MEIER:  
13 Senator Kuhl. Senator Kuhl.

14 SENATOR KUHL: Yes, Mr.  
15 President. I move we accept the report of the  
16 Rules Committee at this time.

17 ACTING PRESIDENT MEIER: All  
18 those in favor of accepting the report of the  
19 Rules Committee signify by saying aye.

20 (Response of "Aye.")

21 Opposed nay.

22 (There was no response. )

23 The report of the Rules  
24 Committee is accepted.

25 SENATOR KUHL: Now, Mr.

1 President, may we go to the order of motions  
2 and resolutions. I believe you've got some  
3 substitutions at the desk.

4 ACTING PRESIDENT MEIER:  
5 Motions and resolutions. The Secretary will  
6 read the substitutions.

7 ACTING PRESIDENT MEIER:  
8 Senator Kuhl.

9 SENATOR KUHL: Yes, Mr.  
10 President. May we now proceed.

11 ACTING PRESIDENT MEIER:  
12 Secretary will read.

13 THE SECRETARY: In relation to  
14 Calendar Number 1474, Senator Present moves to  
15 discharge from the Committee on Finance  
16 Assembly Bill 2156-A, and substitute it for  
17 the identical Senate Bill 524-A.

18 ACTING PRESIDENT MEIER:  
19 Substitution ordered. Secretary will read.

20 THE SECRETARY: Calendar Number  
21 1474, by member of the Assembly Parment,  
22 Assembly Print 2156-A, an act to amend the Tax  
23 Law, in relation to production of oil and  
24 gas.

25 ACTING PRESIDENT MEIER: Read

1 the last section.

2 THE SECRETARY: Section 4.

3 This act shall take effect on the first day of  
4 sales tax quarterly period.

5 ACTING PRESIDENT MEIER: Call  
6 the roll.

7 (The Secretary called the  
8 roll. )

9 SENATOR LEICHTER: Is this  
10 1474?

11 ACTING PRESIDENT MEIER: Yes.

12 (The Secretary called the  
13 roll. )

14 THE SECRETARY: Ayes 60, nays  
15 one, Senator Leichter recorded in the  
16 negative.

17 ACTING PRESIDENT MEIER: The  
18 bill is passed.

19 THE SECRETARY: In relation to  
20 Calendar Number 1476, Senator Kuhl moves to  
21 discharge from the Committee on Rules Assembly  
22 Bill 3029 and substitute it for the identical  
23 Senate Bill 1774.

24 ACTING PRESIDENT MEIER:  
25 Substitution ordered. Secretary will read.

1 THE SECRETARY: Calendar Number  
2 1476, by the Assembly Committee on Rules,  
3 Assembly Print 3029, an act to amend the  
4 Agriculture and Markets Law, in relation to  
5 use of lands in agriculture.

6 ACTING PRESIDENT MEIER: Read  
7 the last section.

8 (The Secretary called the  
9 roll. )

10 THE SECRETARY: Ayes 61.

11 ACTING PRESIDENT MEIER: The  
12 bill is passed.

13 THE SECRETARY: Calendar Number  
14 1479, by Senator Skelos, Senate Print 4416, an  
15 act to amend the Civil Practice Law and  
16 Rules.

17 ACTING PRESIDENT MEIER: Read  
18 the last section.

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

21 ACTING PRESIDENT MEIER: Call  
22 the roll.

23 (The Secretary called the  
24 roll. )

25 THE SECRETARY: Ayes 61.

1                   ACTING PRESIDENT MEIER: The  
2 bill is passed.

3                   THE SECRETARY: Calendar Number  
4 1480, by Senator Nozzolio, Senate Print  
5 5202-A, an act to amend the Corrections Law,  
6 in relation to a compensation cap.

7                   ACTING PRESIDENT MEIER: Read  
8 the last section.

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

11                   ACTING PRESIDENT MEIER: Call  
12 the roll.

13                   (The Secretary called the  
14 roll. )

15                   THE SECRETARY: Ayes 61.

16                   ACTING PRESIDENT MEIER: The  
17 bill is passed.

18                   THE SECRETARY: Calendar Number  
19 1481, by Senator Markowitz, Senate Print  
20 5439-A, an act authorizing the city of New  
21 York to reconvey.

22                   ACTING PRESIDENT MEIER: Read  
23 the last section.

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

1                   ACTING PRESIDENT MEIER: Call  
2                   the roll. O.K. There is a home rule message  
3                   at the desk. Call the roll.

4                   (The Secretary called the  
5                   roll. )

6                   THE SECRETARY: Ayes 61.

7                   ACTING PRESIDENT MEIER: The  
8                   bill is passed.

9                   THE SECRETARY: Calendar Number  
10                  1482, by Senator Dollinger, Senate Print  
11                  5703-A, an act to amend the Railroad Law.

12                  ACTING PRESIDENT MEIER: Last  
13                  section.

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

17                  ACTING PRESIDENT MEIER: Call  
18                  the roll.

19                  (The Secretary called the  
20                  roll. )

21                  THE SECRETARY: Ayes 61.

22                  ACTING PRESIDENT MEIER: The  
23                  bill is passed.

24                  THE SECRETARY: In relation to  
25                  Calendar Number 1484, Senator Goodman moves to

1 discharge from the Committee on Rules Assembly  
2 Bill 9428-A, and substitute it for the  
3 identical Senate Bill 6155-A.

4 ACTING PRESIDENT MEIER:  
5 Substitution ordered. Secretary will read.

6 THE SECRETARY: Calendar Number  
7 1484, by member of the Assembly Farrell,  
8 Assembly Print 9428-A, an act to amend the  
9 Local Finance Law.

10 ACTING PRESIDENT MEIER: Read  
11 the last section.

12 SENATOR PATERSON: Lay aside.

13 ACTING PRESIDENT MEIER: Lay  
14 the bill aside.

15 THE SECRETARY: Calendar Number  
16 1487, by Senator Marchi, Senate Print 6632-A,  
17 an act authorizing the city of New York to  
18 reconvey.

19 ACTING PRESIDENT MEIER:  
20 There's a home rule message at the desk. Read  
21 the last section.

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

24 ACTING PRESIDENT MEIER: Call  
25 the roll.

1 (The Secretary called the  
2 roll. )

3 THE SECRETARY: Ayes 61.

4 ACTING PRESIDENT MEIER: The  
5 bill is passed.

6 THE SECRETARY: In relation to  
7 Calendar Number 1484 -- correction, Calendar  
8 Number 1488, by Senator Meier, Senate Print  
9 6760, an act to amend the Family Court Act.

10 ACTING PRESIDENT MEIER: Read  
11 the last section.

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

14 ACTING PRESIDENT MEIER: Call  
15 the roll.

16 (The Secretary called the  
17 roll. )

18 THE SECRETARY: Ayes 61.

19 ACTING PRESIDENT MEIER: The  
20 bill is passed.

21 THE SECRETARY: Calendar Number  
22 1489, by Senator Leibell, Senate Print 6769-A,  
23 an act authorizing the town of Phillipstown.

24 ACTING PRESIDENT MEIER:  
25 There's a home rule message at the desk. Read

1 the last section.

2 THE SECRETARY: Section 3.

3 This act shall take effect immediately.

4 ACTING PRESIDENT MEIER: Call

5 the roll.

6 (The Secretary called the

7 roll. )

8 THE SECRETARY: Ayes 61.

9 ACTING PRESIDENT MEIER: The  
10 bill is passed.

11 THE SECRETARY: Calendar Number  
12 1490, by Senator Alesi, Senate Print 6774-A,  
13 an act to amend the Tax Law, in relation to  
14 the basis on which compensating use taxes are  
15 owed.

16 ACTING PRESIDENT MEIER: Read  
17 the last section.

18 THE SECRETARY: Section 2.

19 This act shall take effect on the first day of  
20 March.

21 ACTING PRESIDENT MEIER: Call

22 the roll.

23 (The Secretary called the

24 roll. )

25 THE SECRETARY: Ayes 61.

1                   ACTING PRESIDENT MEIER: The  
2 bill is passed.

3                   THE SECRETARY: Calendar Number  
4 1491, by Senator Saland, Senate Print 6829-A,  
5 an act authorizing the town of Claverack.

6                   ACTING PRESIDENT MEIER:  
7 There's a home rule message at the desk. Read  
8 the last section.

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

11                   ACTING PRESIDENT MEIER: Call  
12 the roll.

13                   (The Secretary called the  
14 roll. )

15                   THE SECRETARY: Ayes 61.

16                   ACTING PRESIDENT MEIER: The  
17 bill is passed.

18                   THE SECRETARY: Calendar Number  
19 1492, by Senator Saland, Senate Print 7361, an  
20 act to amend the Social Services Law.

21                   ACTING PRESIDENT MEIER: Read  
22 the last section.

23                   THE SECRETARY: Section 22.  
24 This act shall take effect on March 1st,  
25 1999.

1                   ACTING PRESIDENT MEIER: Call  
2                   the roll.

3                   SENATOR SALAND: Lay the bill  
4                   aside for the day.

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

7                   THE SECRETARY: Calendar Number  
8                   1493, by Senator Velella, Senate Print 7572-A,  
9                   an act to amend the Insurance Law, in relation  
10                  to continuing.

11                  SENATOR KUHL: Mr. President,  
12                  is there a message at the desk?

13                  ACTING PRESIDENT MEIER: There  
14                  is a message.

15                  SENATOR KUHL: Move we accept  
16                  the message.

17                  ACTING PRESIDENT MEIER: All  
18                  those in favor of accepting the message of  
19                  necessity signify by saying aye.

20                  (Response of "Aye.")

21                  Opposed nay.

22                  (There was no response.)

23                  The message is accepted.

24                  Secretary will read.

25                  THE SECRETARY: Section 7.

1 This act shall take effect immediately.

2 ACTING PRESIDENT MEIER: Call  
3 the roll.

4 (The Secretary called the  
5 roll.)

6 THE SECRETARY: Ayes 61.

7 ACTING PRESIDENT MEIER: The  
8 bill is passed.

9 THE SECRETARY: Calendar Number  
10 1494, by Senator Alesi, Senate Print 7595-B,  
11 an act to amend the Local Finance Law, in  
12 relation to financing remediation.

13 ACTING PRESIDENT MEIER: Lay  
14 the bill aside.

15 THE SECRETARY: Calendar Number  
16 1496, by Senator Balboni, Senate print 7732,  
17 an act in relation to adjusting certain state  
18 aid payments.

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

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

23 SENATOR KUHL: Move we accept  
24 the message.

25 ACTING PRESIDENT MEIER: All

1 those in favor of accepting the message of  
2 necessity signify by saying aye.

3 (Response of "Aye.")

4 Opposed nay.

5 (There was no response. )

6 The message is accepted. Read  
7 the last section.

8 THE SECRETARY: Section 4.

9 This act shall take effect immediately.

10 ACTING PRESIDENT MEIER: Call  
11 the roll.

12 (The Secretary called the  
13 roll.)

14 THE SECRETARY: Ayes 61.

15 ACTING PRESIDENT MEIER: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 1498, by Senator Padavan, Senate Print 7740,  
19 an act to amend the Education Law, in relation  
20 to the composition of community boards.

21 ACTING PRESIDENT MEIER: Read  
22 the last section.

23 SENATOR PATERSON: Lay aside,  
24 please.

25 ACTING PRESIDENT MEIER: Lay

1 the bill aside.

2 THE SECRETARY: Calendar Number  
3 1499, by Senator Holland, Senate Print 7742,  
4 an act to authorize the sale of real  
5 property.

6 ACTING PRESIDENT MEIER: Read  
7 the last section.

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

10 ACTING PRESIDENT MEIER: Call  
11 the roll.

12 (The Secretary called the  
13 roll.)

14 THE SECRETARY: Ayes 61.

15 ACTING PRESIDENT MEIER: The  
16 bill is passed.

17 THE SECRETARY: Calendar Number  
18 1503, by Senator Libous, Senate Print 7770, an  
19 act to amend Chapter 723 of the Laws of 1993.

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

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

24 SENATOR KUHL: Move we accept  
25 the message.

1                   ACTING PRESIDENT MEIER: All  
2 those in favor of accepting the message of  
3 necessity signify by saying aye.

4                   (Response of "Aye.").

5                   Opposed nay.

6                   (There was no response.)

7                   The message is accepted. Read  
8 the last section.

9                   THE SECRETARY: Section 4.

10 This act shall take effect immediately.

11                   ACTING PRESIDENT MEIER: Call  
12 the roll.

13                   (The Secretary called the  
14 roll.)

15                   ACTING PRESIDENT MEIER: I'm  
16 sorry. Senator Libous, to explain his vote.

17                   SENATOR LIBOUS: Mr. President,  
18 I just want to make note to the members that  
19 this legislation extends the Community  
20 Reinvestment Act which expires on March 31,  
21 1999. It will extend it to September 30,  
22 2001.

23                   ACTING PRESIDENT MEIER:  
24 Secretary will call the roll.

25                   (The Secretary called the

1 roll. )

2 THE SECRETARY: Ayes 61.

3 ACTING PRESIDENT MEIER: The  
4 bill is passed.

5 THE SECRETARY: Calendar Number  
6 1507, by Senator Velella, Senate Print 7811,  
7 an act to amend the Vehicle and Traffic Law  
8 and the Insurance Law.

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

11 ACTING PRESIDENT MEIER: There  
12 is a message of necessity.

13 SENATOR KUHL: Move we accept  
14 the message.

15 ACTING PRESIDENT MEIER: All  
16 those in favor of accepting the message of  
17 necessity signify by saying aye.

18 (Response of "Aye.")

19 Opposed nay.

20 (There was no response.)

21 The message is accepted. Read  
22 the last section.

23 THE SECRETARY: Section 7.

24 This act shall take effect July 1st, 1998.

25 ACTING PRESIDENT MEIER: Call

1 the roll.

2 (The Secretary called the roll.

3 THE SECRETARY: Ayes 61.

4 ACTING PRESIDENT MEIER: The  
5 bill is passed.

6 THE SECRETARY: Calendar Number  
7 1508, by Senator Stachowski, Senate Print  
8 7413, an act to amend the Penal Law, in  
9 relation to assault.

10 ACTING PRESIDENT MEIER: Read  
11 the last section.

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

15 ACTING PRESIDENT MEIER: Call  
16 the roll.

17 (The Secretary called the  
18 roll.)

19 THE SECRETARY: Ayes 61.

20 ACTING PRESIDENT MEIER: The  
21 bill is passed.

22 Senator Kuhl.

23 SENATOR KUHL: May we now read  
24 the controversial calendar.

25 ACTING PRESIDENT MEIER:

1 Secretary will read the controversial  
2 calendar.

3 THE SECRETARY: Calendar Number  
4 1484, substituted earlier today, by member of  
5 the Assembly Farrell, Assembly Print 9428-A,  
6 an act to amend the Local Finance Law.

7 SENATOR KUHL: Lay it aside for  
8 the day.

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

11 THE SECRETARY: Calendar Number  
12 1498, by Senator Padavan, Senate Print 7740,  
13 an act to amend the Education Law, in relation  
14 to composition of community boards.

15 SENATOR PATERSON: Explanation.

16 ACTING PRESIDENT MEIER:  
17 Senator Padavan, an explanation has been  
18 requested of Calendar 1498 by Senator  
19 Paterson.

20 SENATOR PADAVAN: Mr.  
21 President, late last year or late '96 we  
22 passed a governance bill that significantly  
23 altered the structure of our community school  
24 boards and the governance of the board of  
25 education and the school system in the city of

1 New York.

2 One component of that bill,  
3 that law which became law, established a task  
4 force to report back to us on recommendations  
5 and how it changed in a positive way the  
6 method of electing community school boards.

7 This bill reflects those  
8 recommendations. First, and I think  
9 importantly to everyone, the ballots will now  
10 be cast by machine rather than a paper ballot;  
11 fortunately that cascading system which none  
12 of us could understand is eliminated and  
13 individuals who voted for four of the nine  
14 candidates and the top nine will win, will  
15 serve.

16 Those are the essential  
17 ingredients in this bill. The election  
18 remains in the same calendar time frame.  
19 There are provisions for education of voters  
20 and registration of parent voters, and  
21 dissemination of information about candidates  
22 as well as those who serve on the community  
23 school boards as far as their record and  
24 attendance and other pertinent information.

25 ACTING PRESIDENT MEIER:

1 Senator Paterson.

2 SENATOR PATERSON: Mr.  
3 President, I just have one quick question for  
4 Senator Padavan.

5 ACTING PRESIDENT MEIER:  
6 Senator Padavan, do you yield to a question?

7 SENATOR PADAVAN: Yes.

8 ACTING PRESIDENT MEIER:  
9 Senator yields.

10 SENATOR PATERSON: Senator  
11 Padavan, do you think under the new system  
12 that minorities, and I don't mean when I say  
13 minorities necessarily African-Americans or  
14 Latinos, but minorities, in a sense wouldn't  
15 everybody be better represented under the old  
16 system because there was a sort of  
17 proportional representation?

18 SENATOR PADAVAN: No, I don't  
19 believe so. I think the system is clearer,  
20 more straightforward, serves everyone,  
21 minorities and others as well, and I might add  
22 there is a portion of this bill that, and I  
23 would read one sentence: "The city board and  
24 the board of elections of the city of New York  
25 should use foreign language and ethnic

1 newspapers and television stations to maximize  
2 minority participation in the electoral  
3 process."

4 SENATOR PATERSON: The  
5 explanations is satisfactory.

6 SENATOR KUHL: Read the last  
7 section.

8 ACTING PRESIDENT MEIER: Read  
9 the last section.

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

12 ACTING PRESIDENT MEIER: Call  
13 the roll.

14 (The Secretary called the  
15 roll.)

16 THE SECRETARY: Ayes 61.

17 ACTING PRESIDENT MEIER: The  
18 bill is passed.

19 Senator Kuhl.

20 SENATOR KUHL: Mr. President,  
21 as I understand it, there are some  
22 substitutions at the desk. May we return to  
23 motions and resolutions for one -

24 ACTING PRESIDENT MEIER: We  
25 have one motion.

1 Senator Libous.

2 SENATOR LIBOUS: Thank you, Mr.  
3 President. On behalf of Senator Lack, I offer  
4 the following amendments to Calendar Number  
5 1140, Senate Print Number 588-C, and ask that  
6 said bill retain its place on the Third  
7 Reading Calendar.

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

12 Senator Kuhl.

13 SENATOR KUHL: Would you  
14 recognize Senator Spano, please.

15 ACTING PRESIDENT MEIER:  
16 Senator Spano.

17 SENATOR SPANO: Mr. President,  
18 can I please be recorded in the negative on  
19 1448, please.

20 ACTING PRESIDENT MEIER:  
21 Without objection, Senator Spano will be  
22 recorded in the negative on Calendar Number  
23 1448.

24 Senator Kuhl.

25 SENATOR KUHL: Recognize

1 Senator Leibell.

2 ACTING PRESIDENT MEIER:

3 Senator Leibell.

4 SENATOR LEIBELL: Mr.

5 President, may I also be recorded in the  
6 negative on 1448.

7 ACTING PRESIDENT MEIER:

8 Without objection, Senator Leibell will be  
9 recorded in the negative on 1448.

10 Senator Kuhl.

11 SENATOR KUHL: Is there any  
12 other housekeeping at the desk?

13 ACTING PRESIDENT MEIER: There  
14 is Senator Larkin asking to be recognized.

15 SENATOR LARKIN: Mr. President,  
16 may I be recorded in the negative on Calendar  
17 1448.

18 ACTING PRESIDENT MEIER:

19 Without objection, Senator Larkin will be  
20 recorded in the negative on Calendar 1448.

21 SENATOR KUHL: Any other  
22 housekeeping?

23 ACTING PRESIDENT MEIER: There  
24 is no housekeeping at the desk.

25 SENATOR KUHL: There being no

1 further business, Mr. President, I move that  
2 the Senate stand adjourned -- would you  
3 recognize Senator Libous who apparently has a  
4 little housekeeping.

5 ACTING PRESIDENT MEIER:  
6 Senator Libous.

7 SENATOR LIBOUS: I'm a little  
8 slow, but can I also request unanimous consent  
9 to be recorded in the negative on 1448.

10 SENATOR KUHL: Senator  
11 Maziarz.

12 ACTING PRESIDENT MEIER:  
13 Senator Maziarz is even slower than Senator  
14 Libous.

15 Senator Maziarz.

16 SENATOR MAZIARZ: Thank you  
17 very much, Mr. President.

18 I would also like unanimous  
19 consent to be recorded in the negative on  
20 Calendar Number 1448.

21 ACTING PRESIDENT MEIER:  
22 Without objection, Senator Maziarz will be  
23 recorded in the negative on 1448.

24 Senator Nozzolio.

25 SENATOR NOZZOLIO: I'd also

1       like unanimous consent to be recorded in the  
2       negative on Calendar Number 1448.

3                   ACTING PRESIDENT MEIER:  
4       Without objection, Senator Nozzolio will be  
5       record recorded in the negative on 1448.

6                   SENATOR KUHL:   Senator Lack.

7                   SENATOR LACK:   Yes.  I'd like  
8       to be recorded in the negative on Calendar  
9       Number 1448, please.

10                  ACTING PRESIDENT MEIER:  
11       Without objection, Senator Lack will be  
12       recorded in the negative on Calendar 1448.

13                  Senator -- can we have some  
14       order so we can conclude the business,  
15       please.

16                  SENATOR KUHL:   Now, Mr.  
17       President, there being no further business -

18                  ACTING PRESIDENT MEIER:  
19       Senator Rath, did you wish to be recognized?

20                  SENATOR RATH:   Mr. Chairman,  
21       I'd like to be recorded in the negative on  
22       1449.

23                  ACTING PRESIDENT MEIER:  
24       Without objection, Senator Rath will be  
25       recorded in the negative on Calendar 1448.  I

1 think it's safe now.

2 SENATOR KUHL: For the third  
3 and final time. Would you recognize Senator  
4 Stafford.

5 SENATOR STAFFORD: Same motion.

6 ACTING PRESIDENT MEIER:  
7 Senator Stafford, without objection, will be  
8 recorded in the negative on Calendar 1448.

9 SENATOR KUHL: There being no  
10 further business, Mr. President. Wait a  
11 minute -

12 There being no further  
13 business, Mr. President.

14 ACTING PRESIDENT MEIER:  
15 Senator Smith, did you want to be recognized?  
16 Senator Smith.

17 SENATOR SMITH: I'm already  
18 down.

19 SENATOR KUHL: There being no  
20 further business, Mr. President -- there being  
21 no further business -

22 ACTING PRESIDENT MEIER:  
23 Senator Saland.

24 SENATOR SALAND: I don't know  
25 if I'll get it, but may I have unanimous

1 consent to be recorded in the negative on  
2 1448.

3 SENATOR GOLD: No.

4 ACTING PRESIDENT MEIER:

5 Without objection, Senator Saland will be  
6 recorded in the negative on Calendar 1448.

7 Is there any other member who  
8 wishes to be recognized for any purpose?

9 Senator Kuhl.

10 SENATOR KUHL: There being no  
11 further business, Mr. President, I move that  
12 the Senate stand adjourned until tomorrow,  
13 June 18th, the last day of session this year  
14 for this scheduled session, at 10:00 a.m.,  
15 sharp.

16 ACTING PRESIDENT MEIER: On  
17 motion, Senate stands adjourned until  
18 tomorrow, June 18th, 10:00 a.m., sharp.

19 (Whereupon at 10:39 p.m., the  
20 Senate adjourned)

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