ALBANY, NEW YORK

June 17, 1998

10:08 A.M.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

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

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

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

(A moment of silence was observed.)

Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator -- the Secretary will read substitutions.

Hold that. Senator Gold.

SENATOR GOLD: Yes. Mr. President, I move to amend Senate bill 7452-B by striking out the amendment that was made on June 15th and restoring its previous print, 7452-A.

ACTING PRESIDENT MEIER: So ordered.

Secretary will read substitutions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Skelos.

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

ACTING PRESIDENT MEIER: Secretary will read the title.

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

ACTING PRESIDENT MEIER: Senator Paterson.

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

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

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

Senator Skelos.

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

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The

bill is passed.

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

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

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 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The

bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 730, by Senator Trunzo.

SENATOR SKELOS: Lay it aside

for the day.

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

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

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 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2.

This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 37.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay

the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIODENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT MEIER: Lay aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3.

This act shall take effect -

SENATOR LEICHTER: Lay that aside.

ACTING PRESIDENT MEIER: Lay that aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read

the last section.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR LEICHTER: Lay aside.

ACTING PRESIDENT MEIER: Lay

the bill aside.

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

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

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR DOLLINGER: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the

roll.)

THE SECRETARY: Ayes 40.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read

the last section.

THE SECRETARY: Section 4.

This act shall take effect in 90 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1389, substituted earlier today.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1390, by -

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1391, by Senator Skelos.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay it aside.

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

SENATOR DOLLINGER: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

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 45, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR MONTGOMERY: Lay it

aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1403, substituted earlier today, by member of the Assembly Lafayette, Assembly Print 10282, an act to amend the General Business Law, in relation to making technical corrections.

ACTING PRESIDENT MEIER: Lay the bill aside.

Secretary will read.

THE SECRETARY: Calendar Number 1405, by Senator Leibell, Senate Print 7189, an act to amend the New York City Charter, in relation to permitting.

SENATOR LEICHTER: Lay it aside.

SENATOR PATERSON: Lay that aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1406, by Senator Seward, Senate Print 7270, an act to amend the Tax Law, in relation to exemptions.

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 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

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 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the

roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT MEIER: Lay aside.

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

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

SENATOR VELELLA: Lay aside temporarily.

ACTING PRESIDENT MEIER: Lay aside temporarily.

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

SENATOR DOLLINGER: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the

roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 46.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR PATERSON: Lay that aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

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 50.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR LEICHTER: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

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

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR DOLLINGER: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

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

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

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

Senator Padavan.

SENATOR PADAVAN: Yes, Mr. President.

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

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

Senator Volker.

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

ACTING PRESIDENT MEIER: So ordered.

Senator LaValle.

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

420.

ACTING PRESIDENT MEIER: Without objection, Senator LaValle will be recorded in the negative on Calendar Number 420.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, may I have unanimous consent to also be recorded in the negative on Calendar Number 420.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar Number 420.

Senator Skelos.

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

ACTING PRESIDENT MEIER: Secretary will read the controversial calendar.

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

SENATOR SKELOS: Lay it aside for the day.

ACTING PRESIDENT MEIER: Lay

the bill aside for the day.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Wait. Explanation.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The

bill is passed.

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

SENATOR PATERSON: Explanation.

SENATOR MAZIARZ: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

Thank you.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr.

President, if the sponsor would yield.

ACTING PRESIDENT MEIER:

Senator Maziarz, do you yield for a question?

SENATOR MAZIARZ: Certainly, Mr. President.

ACTING PRESIDENT MEIER:

Senator yields.

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

Maziarz pointed out.

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

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

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

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

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

SENATOR MAZIARZ: For one further question.

ACTING PRESIDENT MEIER: Senator yields for one further question.

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

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

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

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR LEICHTER: Explanation.

SENATOR PATERSON: Explanation.

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

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

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

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

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: If Senator Leibell would yield.

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER:

Sponsor yields.

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

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

SENATOR LEICHTER: Well, why?

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

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

ACTING PRESIDENT MEIER:

Senator Leibell, do you continue to yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER:

Senator continues to yield.

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

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

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

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

SENATOR LEIBELL: From that property.

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

SENATOR LEIBELL: Correct.

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

SENATOR LEIBELL: Some form of

default.

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

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

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

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

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

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

SENATOR LEICHTER: O.K. Thank you.

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 50.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR PATERSON: Explanation.

THE SECRETARY: Calendar Number 1259, by Senator Alesi.

ACTING PRESIDENT MEIER: Not yet, Senator Paterson.

THE SECRETARY: Senate Print 7380-A, an act to amend the Highway Law.

ACTING PRESIDENT MEIER: Now.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Alesi.

Senator Alesi, an explanation has been requested of Calendar 1259 by Senator

Paterson.

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

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

ACTING PRESIDENT MEIER: Senator Paterson.

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

SENATOR ALESI: Local.

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

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

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

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 50.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

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

SENATOR SKELOS: Lay aside temporarily.

ACTING PRESIDENT MEIER: Lay aside temporarily.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Senator Paterson.

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

SENATOR SKELOS: Lay aside temporarily.

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

The Secretary will continue to read.

SENATOR PATERSON: Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Senator

Leichter is in the Finance Committee.

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

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

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

The Secretary will continue to read.

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

SENATOR PATERSON: Explanation.

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

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

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

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

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

Under current law, if a police

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

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

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

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

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

ACTING PRESIDENT MEIER: Senator Paterson.

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT MEIER: Senator Paterson? Senator Leichter.

SENATOR LEICHTER: Yes, Mr.

President, if Senator Maltese would yield.

ACTING PRESIDENT MEIER:

Senator yields.

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

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

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: Secretary will read Calendar Number 1374.

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

SENATOR LEICHTER: Explanation.

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

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

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

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

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

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

SENATOR LEICHTER: Mr. President.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: If Senator Saland will yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator yields.

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

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

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

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

SENATOR LEICHTER: And why are

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

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

SENATOR LEICHTER: Well, just so -

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

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator yields.

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

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

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

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

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

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

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

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

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

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

SENATOR LEICHTER: Senator Saland.

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

SENATOR LEICHTER: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator Saland, do you yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: Sponsor yields.

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

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

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

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

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

SENATOR LEICHTER: Well -

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

SENATOR LEICHTER: O.K.

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

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

SENATOR SALAND: Yes.

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

SENATOR SALAND: At all levels, correct.

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

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

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

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

on EDZs without making myself a maven on IDAs.

SENATOR LEICHTER: Well, Senator Saland -

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

SENATOR LEICHTER: Yes, Senator Saland.

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

SENATOR SALAND: Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

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

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

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

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

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

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

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

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

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

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

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

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

ACTING PRESIDENT MEIER: The bill is still passed.

Secretary will continue to read

the calendar.

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

ACTING PRESIDENT MEIER: Lay that bill aside temporarily.

Senator Skelos.

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

ACTING PRESIDENT MEIER: Secretary will read Calendar Number 1381.

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

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

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

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

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

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

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

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

SENATOR SKELOS: Yes.

ACTING PRESIDENT MEIER: Senator yields.

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

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

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

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

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

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

question?

SENATOR SKELOS: Yes, I do.

ACTING PRESIDENT MEIER: Senator yields.

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

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

SENATOR LEICHTER: O.K.

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

ACTING PRESIDENT MEIER: Senator Leichter, on the bill.

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

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Senator Paterson.

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

ACTING PRESIDENT MEIER: Secretary will lay it aside temporarily.

I'm sorry. Senator Trunzo.

SENATOR TRUNZO: Yes, sir.

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

SENATOR TRUNZO: May I ask why?

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

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

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

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

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

Secretary will continue to read the calendar.

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

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: May we have an explanation.

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

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

THE SECRETARY: Calendar Number

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

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

Secretary will continue to read.

Calendar Number 1390, read the last section.

SENATOR MARCELLINO: I thought you laid it aside temporarily.

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1392.

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

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

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

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

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

an act to amend the Civil Service Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act -

SENATOR MARCELLINO: Lay that bill aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section -

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

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

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

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

ACTING PRESIDENT MEIER: There

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

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

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

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

Secretary will continue to read.

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

SENATOR PATERSON: Explanation,

Mr. President.

ACTING PRESIDENT MEIER:

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

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

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

ACTING PRESIDENT MEIER: Read the last section.

SENATOR GENTILE: Mr. President.

ACTING PRESIDENT MEIER:

Senator Gentile, why do you rise?

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

ACTING PRESIDENT MEIER: Yes, there is.

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

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

SENATOR GENTILE: Thank you, Mr. President.

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

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

Presently, Mr. President, accidental disability determinations for New York City firefighters are currently made by the Board of Trustees of the Fire Department Pension Fund, and that determination is based on information and recommendations made by the fund's medical board. Injured workers currently, injured firefighters, have no opportunity to review and challenge that information that is made -- that constitutes the decision of the board. If the Board of Trustees is split on the question of accidental disability for firemen, that applicant is retired on an ordinary disability pension which is a smaller benefit package, and then the firefighter is relegated to the court system to appeal that decision.

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

It would allow them now to

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

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

ACTING PRESIDENT MEIER:

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

SENATOR ONORATO: Party vote in the affirmative.

SENATOR MARCELLINO: Party vote in the negative.

ACTING PRESIDENT MEIER: Secretary will call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The amendment fails.

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 57.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

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

SENATOR MARCELLINO: Lay the bill aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

SENATOR MARCELLINO: Mr. President.

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

Secretary will continue to read.

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

ACTING PRESIDENT MEIER: Senator Marcellino.

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

aside temporarily.

ACTING PRESIDENT MEIER: O.K. For the purpose of keeping the record clear, why don't we let the Secretary read and why don't you indicate the ones you're requesting to lay aside.

Secretary will continue to read the calendar.

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

ACTING PRESIDENT MEIER: Whatever that means, so ordered.

Secretary will continue to read the calendar.

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

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

SENATOR LEICHTER: Explanation, please.

ACTING PRESIDENT MEIER:

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

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

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

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

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

SENATOR TRUNZO: No, this is a general -

SENATOR LEICHTER: Generic

thing.

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

SENATOR LEICHTER: No objection.

SENATOR TRUNZO: Last section.

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 57.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

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

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

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

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

SENATOR MARCELLINO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: May we

return to Calendar 1409, please.

ACTING PRESIDENT MEIER:

Secretary will read Calendar Number 1409.

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

ACTING PRESIDENT MEIER:

There's a home rule message at the desk.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT MEIER:

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

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

SENATOR LEICHTER: Mr. President, would Senator Trunzo yield?

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: Senator Trunzo. Do you yield for a question? Senator yields.

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

SENATOR TRUNZO: Yes.

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

SENATOR TRUNZO: They haven't asked for it.

SENATOR LEICHTER: Excuse me?

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

SENATOR LEICHTER: Mr.

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

SENATOR TRUNZO: Apparently some of them did.

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

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 57.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

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

ACTING PRESIDENT MEIER: Secretary will read Calendar Number 1405.

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

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

SENATOR LEICHTER:

Explanation.

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

SENATOR LEIBELL: Thank you, Mr. President.

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

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

Currently members of the New

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

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

ACTING PRESIDENT MEIER: Senator Leibell, do you yield?

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER: Senator yields.

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

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

one.

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

SENATOR LEIBELL: No, I have not.

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

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

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

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

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

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER: Senator yields.

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

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

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

SENATOR LEICHTER: Well -

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

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

ACTING PRESIDENT MEIER: Senator Leichter, on the bill.

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

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT MEIER:

Senator Marcellino.

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

ACTING PRESIDENT MEIER: Secretary will read Calendar 1427.

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

SENATOR LEICHTER: Explanation.

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

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

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

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

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

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: If Senator Goodman will yield.

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

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

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

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

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

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

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

SENATOR GOODMAN: No, it does not.

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

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

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

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

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

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

Is there any protection in your

bill against that?

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

SENATOR LEICHTER: Well, Senator -

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

SENATOR LEICHTER: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator Goodman, do you yield?

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

ACTING PRESIDENT MEIER:

Senator yields.

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

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

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

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

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

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

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

SENATOR GOODMAN: (Microphone inoperative-comment inaudible).

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

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

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

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

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

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

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

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

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.

ACTING PRESIDENT MEIER: Secretary will read Calendar 1434.

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

ACTING PRESIDENT MEIER: Read the last section.

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

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: Can we go back on the controversial calendar and call the bills in order that are still remaining.

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

THE SECRETARY: Calendar Number

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

SENATOR DOLLINGER: Explanation.

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

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

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

SENATOR DOLLINGER: On the bill, Mr. President.

ACTING PRESIDENT MEIER:

Senator Dollinger, on the bill.

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

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

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

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

In other words, first you have

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

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

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: Senator yields.

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

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

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

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

Would that include long-term care?

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

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

SENATOR TRUNZO: It could,

required extraordinary care.

SENATOR DOLLINGER: O.K. Through, Mr. President, that's my hope.

SENATOR TRUNZO: I hope so too.

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

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

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

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR ONORATO: Explanation.

SENATOR MARCELLINO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

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

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

ACTING PRESIDENT MEIER: Read the last section.

SENATOR ONORATO: Explanation.

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

ACTING PRESIDENT MEIER: Lay it aside temporarily.

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

SENATOR ONORATO: Explanation.

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

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

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

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

ACTING PRESIDENT MEIER: Senator Dollinger.

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

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

Do you wish the Senator to yield?

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

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

Senator Dollinger?

SENATOR HOLLAND: I do, Mr. President.

SENATOR DOLLINGER: Through the President -

ACTING PRESIDENT MEIER: Senator yields.

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

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

SENATOR DOLLINGER: I didn't hear that.

SENATOR HOLLAND: Greenwood Lake.

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

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.

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

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 ONORATO: Explanation, please.

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

SENATOR ONORATO: Mr.

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

ACTING PRESIDENT MEIER: Call roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 60.

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

SENATOR MARCELLINO: Lay the bill aside temporarily.

ACTING PRESIDENT MEIER: Bill will be laid aside temporarily.

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

ACTING PRESIDENT MEIER: Read the last section.

SENATOR ONORATO: Explanation.

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

Onorato.

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

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

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

SENATOR DOLLINGER: Just -

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

ACTING PRESIDENT MEIER: Senator Alesi yields.

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

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

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

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

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

SENATOR ALESI: Yes.

ACTING PRESIDENT MEIER: Senator yields.

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

SENATOR ALESI: I don't know that.

SENATOR DOLLINGER: Thank you,

Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR ONORATO: Explanation.

SENATOR MARCELLINO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

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

Act.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR ONORATO: Lay it aside, please.

SENATOR MARCELLINO: Lay the bill aside temporarily.

SENATOR SEWARD: Mr. President.

ACTING PRESIDENT MEIER: Senator Seward.

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

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

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

Senator Seward.

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

ACTING PRESIDENT MEIER: I know him.

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

ACTING PRESIDENT MEIER: So ordered.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

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

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

The Secretary will read.

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

Member of the New York State

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

SENATOR STAFFORD: Move confirmation, please.

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

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nomination is confirmed. Secretary will read.

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

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

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.

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

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

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

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

commission which runs our transit authority.

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

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

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

ACTING PRESIDENT MEIER: Question is on the confirmation of Frank Carpenter as a member of the Rochester-Genesee

Regional Transportation Authority.

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(Three hands are raised.)

The nomination is confirmed. The record will indicate Senator Dollinger's and Senator Santiago in opposition.

Secretary will continue to read.

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

SENATOR STAFFORD: Move confirmation, please.

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

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The nominee is confirmed.

The Secretary will continue to read.

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

SENATOR STAFFORD: Move confirmation, please.

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

All those in favor signify by saying aye.

(Response of "Aye.")

Opposed, nay.

(There was no response.)

The nomination is confirmed.

Senator Marcellino, that's all of the -

SENATOR STAFFORD: Move confirmation, please.

SENATOR MARCELLINO: Mr. President, if we could stand at ease momentarily because we have to wait for the

Judiciary people to come back.

ACTING PRESIDENT MEIER: Senate will stand at ease.

SENATOR MARCELLINO: Which I believe they are almost now.

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

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

Senator Marcellino.

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

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

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

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

following nomination:

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

ACTING PRESIDENT KUHL: Chair recognizes Senator Lack.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Thank you very much.

ACTING PRESIDENT KUHL: Senator Gold.

SENATOR GOLD: Thank you, Mr. President.

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

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

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

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

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

(There was no response.)

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

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

Also, accompanying Justice Leo

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

The Secretary will continue to read.

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

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

ACTING PRESIDENT KUHL: The Chair recognizes Senator Lack.

SENATOR LACK: Thank you, Mr. President.

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

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

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

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

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

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

would respectfully yield to Senator Marcellino.

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

SENATOR MARCELLINO: Thank you, Mr. President.

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

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

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

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

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

Danny, congratulations, Godspeed and good luck.

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

(There was no response.)

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

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The nominee is unanimously confirmed.

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

(Applause)

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

(Applause)

The Chair recognizes Senator Marcellino.

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

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

SENATOR MARCELLINO: 1390.

ACTING PRESIDENT KUHL: Thank you.

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

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

SENATOR PATERSON: Explanation.

SENATOR SPANO: Mr. President.

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

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

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

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

quality of life issues.

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

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

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

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

SENATOR PATERSON: Explanation.

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

SENATOR SKELOS: Mr. President,

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

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

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

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

ACTING PRESIDENT KUHL: While

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

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

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

ACTING PRESIDENT KUHL: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

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

SENATOR SKELOS: Mr. President.

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

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

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

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

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

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

SENATOR DOLLINGER: Can I be

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

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

The Secretary will continue to read the controversial calendar.

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

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

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

The Secretary will continue to read.

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

SENATOR PATERSON: Explanation.

SENATOR MARCELLINO: Mr.

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

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

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

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

ACTING PRESIDENT KUHL: Senator Paterson?

SENATOR GOLD: Mr. President.

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

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

SENATOR VELELLA: Yes.

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

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

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

SENATOR VELELLA: Sure.

ACTING PRESIDENT KUHL: The Senator yields.

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

initially put it, the system where it was extended.

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

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

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

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

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

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

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

SENATOR GOLD: Thank you.

SENATOR VELELLA: You're welcome.

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

Senator Gentile.

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

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

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

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

SENATOR GENTILE: Thank you, Mr. President.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

In New York the average auto insurance premium last year or 1996 was $1113 compared to the national average of $774. Drivers in my section of Brooklyn, the area that I represent in Brooklyn, pay an average of $3,034 a year in insurance premiums. Outrageous. Absolutely outrageous. And that is why this amendment is so important, Mr. President.

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

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

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

ACTING PRESIDENT KUHL: Senator, do you yield?

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

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

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

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

premiums?

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

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

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

SENATOR VELELLA: I'm asking a hypothetical question.

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

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

corrected.

ACTING PRESIDENT KUHL: Do you yield to another question?

SENATOR GENTILE: Yes.

ACTING PRESIDENT KUHL: The Senator yields.

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

SENATOR GENTILE: Well, as I say to you -

SENATOR VELELLA: Simple. Yes or no.

SENATOR GENTILE: No, no, no. I believe I have the opportunity to respond to you, Senator, and I ask you to listen clearly too, and I think that the fact that rates are coming down around the country are a good thing and certainly by this amendment where we

would not allow rates to go higher but we would allow rates to go lower without prior approval is also codifying what we want to see happen in this state. We will now codify by statue what we want to see happen in this amendment by allowing rates to go down, not allowing rates to go up and, frankly, as the numbers show, the rates are going down faster everywhere else in the country except New York State.

So I think -- I think the word has gone out to the insurance companies. We now -- and what I hope to do by this amendment is to codify that. They can go down by ten percent. They cannot go up with prior approval.

SENATOR VELELLA: Will the Senator yield to another question?

SENATOR GENTILE: Yes.

ACTING PRESIDENT KUHL: Senator, do you yield?

SENATOR VELELLA: Are the numbers you're using when you say that rates are going down all around the country two-year-old figures also, the same thing like

you're using here in New York or are they current figures?

SENATOR GENTILE: My information, Senator, is that the 1997 numbers show less than one percent difference in the 1996 numbers for New York State and that brings me back to my point that the rates are going down faster everywhere else but the state of New York.

SENATOR VELELLA: In 1996?

SENATOR GENTILE: I'm saying to you, Senator, that the numbers in 1997 for New York show only a one percent difference.

SENATOR VELELLA: Between what? One percent difference.

SENATOR GENTILE: 1996.

SENATOR VELELLA: Between which states?

SENATOR GENTILE: New York.

SENATOR VELELLA: Which state?

SENATOR GENTILE: What I am saying to you, Senator, between 1996 and 1997, the information that I have is that the numbers for New York State are only one percent difference, which indicates to me that

the rates are going down faster everywhere else but New York State.

SENATOR VELELLA: Will the Senator yield to another question?

ACTING PRESIDENT KUHL: Senator, do you continue to yield?

SENATOR GENTILE: I will yield.

SENATOR VELELLA: If you had this privileged information since 1997, why would you cite to the Senate the statistics of 1996? If you have some new numbers, they ought to be shared because my understanding is that '97 and '98, we are leading the way and Jersey, which did a 15 percent reduction, followed our lead and copied our law to try and bring rates down in New Jersey.

So, I don't know, if you have these numbers from '97, I would be happy to take look at these because you're probably going to do this amendment in the next day or two on the right bill. This is a commercial bill. We have a rate bill coming up for private auto, and I don't want to raise the technical objections so we can get this over with now, but you'll probably bring it up

again when we do the bill that should be amended.

Why wouldn't you give us the numbers that you had, the most current numbers in 1997? Why would you use the old numbers?

SENATOR GENTILE: Senator, if I might, I think we're splitting hairs here, and I think the real issue that we're all trying to get to is the fact that the rates in New York State have been too high and, Senator, I think you agree with that. I don't think you would take an adversarial position or an adverse position on that one. The rates in this state have been too high.

This amendment codifies what we have been trying to do, to allow the rates to go down but requiring approval on any rate increases, and so whatever report or numbers you're talking about, I think we're splitting hairs between 1996 and 1997.

The fact remains that New York State has done an abysmal job up 'til now in getting the rates down. This amendment and your extension will help in that path.

SENATOR VELELLA: Would he

yield for one final question?

ACTING PRESIDENT KUHL: Senator Gentile.

SENATOR GENTILE: One final question.

ACTING PRESIDENT KUHL: The Senator yields.

SENATOR VELELLA: Senator, would you just briefly explain to me why you feel your amendments on the managed care issue are going to have this dynamic impact and what it is on the managed care issues that you're changing for New Yorkers that's not the law now in your amendment?

SENATOR GENTILE: Well, first of all, by creating an insurance consumer advocate will have some -

SENATOR VELELLA: Mr. President, point of order. If you don't want to answer the question, don't answer the question. The question is what are you doing with managed care, not consumer advocate.

SENATOR GENTILE: You're asking me about this amendment.

SENATOR VELELLA: Managed care.

SENATOR GENTILE: I'm asking you about this amendment. What I'm saying to you is this amendment has several parts to it. I don't know if you read this amendment, Senator, but it has -- in addition -- in addition to the flex rate, it creates a consumer advocate in the Insurance Department. The Superintendent of Insurance is directed to create a consumer advocate. So that is something that will add to the protection for the consumer.

It creates the -- it creates the teeth in the excess profit law that we don't have now. There's no enforcement of it and in addition creates the flex band for the decrease but not the increase in insurance rates.

So, therefore, Senator, it does add additional protections and drives the rates in the way we want them to go.

SENATOR VELELLA: I have to ask another question. Maybe I can try another way. Will you yield for one more?

ACTING PRESIDENT KUHL: Senator Gentile, do you continue to yield?

SENATOR GENTILE: Try again.

ACTING PRESIDENT KUHL: The Senator continues to yield.

SENATOR VELELLA: I understand flex rating. I understand consumer advocate. I understand all the other elements. I'll try and make it simple. What are you doing in managed care that's going to save the consumer money? Explain to me what the difference is that you're talking about that you're going to save money for the ratepayers by your changes in managed care? I don't see them here. I would like to see. Maybe I'm not reading it correctly. What are you changing?

SENATOR GENTILE: Well, if you're saying what are we changing, we're changing the flex rating, for example. We're not allowing -- in this amendment the rating is not allowed to increase. It can be decreased by ten percent, not allowed to increase and there in and of itself, Senator, that's one aspect of this -- of this amendment and in and of itself, that will save money, will send the message to the insurance companies that this is the way this

Legislature, this state wants to go. It allows them to reduce it by ten percent.

SENATOR VELELLA: Thank you, Senator.

On the bill, Mr. President.

ACTING PRESIDENT KUHL: On the bill or on amendment, Senator?

SENATOR VELELLA: On the amendment. I'm sorry.

ACTING PRESIDENT KUHL: Senator Velella, on the amendment.

SENATOR VELELLA: Mr. President, while this amendment, while it sounds great, it will do great things for a press release, is first of all amending the wrong bill. It deals with commercial insurance and we'll have the auto bill and you probably will see this again, but the sponsor doesn't even know what's in the bill.

He's talking about two-year-old figures. He's talking about managed care which he can't explain. He talks about flex rating of ten percent and seven percent, which is already the law. We can do this. Companies can reduce premiums or increase

premiums as much as they want. This is not just a battery of ideas that we say you just flex rate and there's no justification. You file an increase or a decrease. All these numbers have to be justified. If it's more than seven percent, if it's ten percent, that has to be justified.

So this is a lot of whitewash, a lot of publicity, a lot of rhetoric. It accomplishes nothing. The sponsor can't tell us what he's doing with managed care to let this bill -- or this amendment have any effect on the rates.

It sounds great, the old cliches. Let's appoint a consumer advocate. We'll have a big office with staff, with a lot of people in it and he'll save 300 million. He'll save 600 million. Fictitious numbers. They are not going to save anything.

That is why New Jersey copied the New York State laws. New Jersey copied our laws to get a 15 percent reduction in insurance rates for their auto users. They didn't copy another state. They copied New York because we have been doing the job.

Sure, auto insurance rates are high and sure we're going to have to deal with fraud. That is probably one of the bigger issue.

We're going to deal with a couple of other issues too and we need to fix them, and I agree with you. We probably are paying too much in the city of New York, but let me tell you, this amendment is nothing more than political rhetoric. The sponsor doesn't even know what's in it.

I think we ought to soundly defeat it.

ACTING PRESIDENT KUHL: Is there any other Senator wishing to speak on the amendment?

(There was no response.)

The question is on the amendment. All those in favor signify by saying aye.

SENATOR PATERSON: Party vote in the affirmative.

ACTING PRESIDENT KUHL: The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT KUHL: Record the party line vote.

THE SECRETARY: Ayes 25, nays 35, party vote.

ACTING PRESIDENT KUHL: The amendment is lost.

On the bill.

SENATOR HOLLAND: Read the last section.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Holland.

SENATOR HOLLAND: Would you do Senator Alesi's bill.

ACTING PRESIDENT KUHL: The Secretary will continue to read the

controversial calendar.

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

ACTING PRESIDENT KUHL: Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, may we have an explanation from Senator Alesi on that bill.

ACTING PRESIDENT KUHL: Senator Alesi, an explanation of Calendar Number 1425 has been requested by Senator Paterson, the Acting Minority Leader.

SENATOR ALESI: Thank you, Mr. President.

This bill simply harmonizes language between federal regulations and state regulations so as to provide less confusion for those people who are leasing vehicles. It is a consumer protection bill. It is supported by car dealers as well as consumer groups as well as the Attorney General's office.

ACTING PRESIDENT KUHL: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Secretary will read the last section.

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

ACTING PRESIDENT KUHL: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60.

ACTING PRESIDENT KUHL: The bill is passed.

Senator Holland.

SENATOR HOLLAND: Mr. President, there will be a Rules Committee meeting in Room 332 at 1:15.

ACTING PRESIDENT KUHL: There will be almost an immediate Rules Committee meeting in Room 332, the Majority Conference Room, at 1:15. A Rules Committee meeting in the Majority Conference Room, Room 332, at 1:15.

Senator Holland.

SENATOR HOLLAND: Mr. President, can we return to the reports of standing committees and do the Finance Committee report.

ACTING PRESIDENT KUHL: We'll return to the reports of standing committees.

I'll ask the Secretary to continue to read the report of the Finance Committee which is at the desk.

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

As a member of the Board of Trustees of the City University of New York: Kathleen M. Pesile, of Staten Island.

ACTING PRESIDENT KUHL: Senator Santiago, on the nomination.

SENATOR SANTIAGO: Yes, Mr. President, to explain my vote.

ACTING PRESIDENT KUHL: Do you want to just explain your vote, Senator Santiago, or would you like to speak on the nomination.

SENATOR SANTIAGO: Yes. Can I

explain my vote?

ACTING PRESIDENT KUHL: As soon as we get to a roll call. Any other member wishing to speak on the nomination?

Senator Stavisky.

SENATOR STAVISKY: May I remain seated, Mr. President?

ACTING PRESIDENT KUHL: Certainly. Certainly, Senator.

SENATOR SANTIAGO: I will not be supporting this -- this nomination. This morning at both the Higher Education Committee and at the Finance Committee meeting the nominee did not respond correctly to the question about remedial education.

It's probably the most important question that in New York City, the CUNY system, probably the most difficult plan that has ever had to be designed and it's probably the most controversial plan that anyone has had to design for the city of New York.

I think that anyone who reads the New York Times, as the nominee said that she read, would have read the proposed plan

and the adopted plan. So I expected that at a minimum she would have an opinion on the plan because that plan affects all the children of the city of New York and particularly it affects the population that I represent and people like myself, people of color, black people, Puerto Rican people, minority people and immigrants.

CUNY is now a system that it appears to me is primarily made up of minority students, people like myself. It was very, very difficult to listen to her and to hear her say that she was going to study and to become familiar with the issues that are affecting the city of New York and the children of New York City because those children are our children, and it appeared to me -- and I apologize in advance if it's disrespectful, but it appeared to me that she was going to study the problem of remediation, whether the plan was a good plan or not a good plan when it's already in effect and she was going to do that on the backs of black, Puerto Rican and Latino and minority students. That's totally unacceptable.

I understand that a member -- a person who is going to be appointed -- I understand clearly that a person who is going to be appointed doesn't have to know the full range of issues that impact that committee. I understand that. I accept that, but this is probably the only issue that is controversial and is really important.

She didn't come prepared to address that issue and she should have expected -- I have to assume that she must have looked at who sat on that committee, at the Higher Education Committee, and she must have seen that a Puerto Rican from Brooklyn sat on that committee and that I sit on it proudly and that I sit on it on behalf of all the children of the city of New York and the state of New York.

So it was very disappointing. I really don't think she had the knowledge base on the most important question affecting our community, and I really would appreciate it if she would study the issue, and I will not support it again because I also don't think she understands that it's not an issue

of quality education. It's an issue of access to education and what we have always requested, all of us, minority students, minority people like myself, we've never asked to change standards. It's not a standards question. It has nothing to do with excellence, but it has everything to do that I want the opportunity to fail and if you deny me the opportunity to fail, I will fight you every step of the way and, as you well know, I really stand up and I feel very strongly about this.

You cannot deny people the right to an education and this is what this plan means and for her not to have an opinion, even if we disagreed, even if we disagreed, that was acceptable. What was not acceptable is lack of knowledge, and she didn't know what the issue was at all.

Thank you, Mr. President.

ACTING PRESIDENT KUHL: The Chair recognizes Senator Marchi.

SENATOR MARCHI: Mr. President, we had a very productive meeting this morning with Kathleen Pesile and she was most

responsive and most effective in addressing all of the myriad issues that confront a nominee.

She has a unique background that I think is not matched, or if it is matched, it is certainly not inferior to anybody on that board that serves now.

As a matter of fact, I think it's a very enviable array of experiences taken in their aggregate for someone of her stature to become part of a collegial body, making important decisions that affect millions of young men and women who are seeking higher education to advance themselves and to also participate in the crying needs that New York City needs for people with higher educational standards.

She addressed the fact that certainly we should have from the City University the satisfaction of knowing that their diploma, their degree, is not going to be undermined or diluted because it will contain within itself the mastery of subject matter and the mastery of people who will be interested in utilizing their services.

She was born in a minority background. She was on welfare, the family. She was in public housing at the time, fully aware and fully sensitive to the needs of the total population to have that opportunity and -

SENATOR GOLD: Mr. President. Mr. President.

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

SENATOR GOLD: Mr. President, I don't mean to interrupt my distinguished colleague, but I've heard a rumor that perhaps there was an indication that there might be a Rules meeting called around 1:15. Since there are members on Rules who want to be involved in this, I would just urge that perhaps while we're debating this, the powers that be could hold the Rules Committee meeting. Perhaps you can communicate that. I would be very grateful.

Senator Marchi, I apologize for that.

SENATOR MARCHI: Thank you, Senator.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: So these are very important considerations that cannot be taken lightly and they were not taken lightly by the members who participated in the Finance Committee meeting.

The information and questions were elicited from a number of members, both sides of the aisle, all of them, in their aggregate, and I communicated this to the nominee, contributed to things that she ought to be hearing and to give her a broader vision, as wide as this -- as she has now, of the problems that we'll be facing.

Now, let me just review very briefly Kathleen Pesile's background. She's a resident of my county and she's an adjunct professor. She's had that experience, but let me lead up to that. She has been head of this financial group, Pesile Financial Group. She has been a financial consultant, International Banking Program of the American Bankers Association. She has been vice-president of Global Markets and Mergers and Acquisitions

for J.P. Morgan & Company. She has been Capital Cities/ABC-Securities Data Division vice-president.

She has an impressive background academically. Graduated summa cum laude from Staten Island College, went to Baruch and received her Master's with a magna cum laude characterization of her work and academic work there, and she's a doctoral candidate in international affairs at New York University.

I might point out that in her service with J.P. Morgan, she had traveled around 43 different countries and has an excellent -- has an excellent background of international dimensions.

So these are experiences that are very, very valid -- one who came through the system, one who professed in our presence that had it not been for the opportunities that she enjoyed at the City University, at Baruch, the sum total of this experience having an impact that certainly led her to exercise important responsibilities.

As an adjunct professor, I know

for a fact that she has helped students out of time, her own time, to bridge gaps that she has helped student graduates from the City University in preparing resumes, to maximize the strengths that they were presenting with their degree. This all adds up to a tremendous interest and concern with the results and the effect that it has on the nominee.

Now, the questions that were asked and that produced at least one comment, maybe more, were all advanced very decorously and with the greatest sincerity by people who were for and against and it's -- she raised the question, Mr. President, that some issues should stand on a full record, not on a newspaper article, not on questions that might be asked or volunteered but by interaction in a governing board, and this is very, very important. Absent that, you don't have an informed judgment. You don't have a judgment that's going to be influencing the total thinking of that body. She has these factors working in her favor. She has the respect of faculty. She has the respect of students.

She has the respect of the total community.

Questions were made about knowing what the facts are and how the response should be. I brought out an argument that one of our governors, Governor Nelson Rockefeller, who did -- was a tremendous Governor, maybe one of the greatest who ever lived -- but had made a promise that there would be no new taxes. I was challenged on that and I said I would not support it until I saw a budget and it would be wrong to prejudge, but it turned out that the following year we didn't have proposals for new taxes but we did have proposals for a dramatic increase in fees that exceeded any increase in taxes.

I did close my remarks in committee with the example of Edmond Burke. Edmond Burke said that you owe your industry and judgment to the people that you're representing and that you -- you render them a distinct disservice if you subject that to any other consideration, and I think that's a good maxim, Mr. President. I think it's a principle that's shared by Kathleen Pesile

simply because she has the intelligence and the experience necessary to make a difference. Her presence will make a difference and will enrich that body at a time when the times are difficult.

So I think, Mr. President, we have an excellent candidate to consider. Her interests are not just academic. They're not just economic, academic, social. They're also cultural. A member of the board of directors of the Staten Island Symphony, member of other organizations that are in her -

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: -- in her recitation.

ACTING PRESIDENT KUHL: Senator Marchi.

SENATOR MARCHI: Yes.

ACTING PRESIDENT KUHL: May I interrupt you?

Senator Gold, for the benefit -- a response to your request and also to all of the members, I have been informed by the Majority Leader that the Rules Committee will

be held until after this confirmation debate is concluded.

SENATOR GOLD: Thank you so much.

ACTING PRESIDENT KUHL: In an effort to try to cooperate and facilitate the end of session. Certainly you recognize that.

Thank you for indulging the interruption, Senator Marchi.

SENATOR MARCHI: Thank you, Mr. President.

So I recommend -- I don't take my words lightly here on the floor. I voted for measures that were not generally favorable -- favored by a majority of the members. I've tried to exercise that responsibility seriously, but this is not a difficult decision. This is an easy lift because of the tremendous and superb qualities that she brings to her proposed nomination.

So with the greatest respect to the members who had questions that deserved some answers, I believe that response was earnest, sincere and commendable. She said

I'll be willing to come back and tell you every jot and tittle of my position on any number of issues that demand that kind of inquiry and thank God she has it.

She is an individual that can deliver that kind of interest, that kind of concern with the objective -- stated objective of maximizing opportunity in the city of New York and those others who come into the City University, to give them the greatest opportunity possible in achieving their objectives academically.

So, Mr. President, I don't think I've ever been prouder of a nomination of this nature than I have of this one and I think it's been a very good nomination. I think that she brings those qualities in a rich array no matter what facet, a family woman, all of the qualities that I think would endear us to someone who's highly desirable as a member of the CUNY board.

So, Mr. President, I move the confirmation of this nomination and trust and hope that it will receive your commendation and your support.

SENATOR GOLD: Mr. President.

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

SENATOR GOLD: Seeking your attention to speak when it's my turn.

ACTING PRESIDENT KUHL: We have a list going, Senator Gold.

SENATOR GOLD: I thought I was on it.

ACTING PRESIDENT KUHL: There are several members ahead of you. Senator Stavisky is next.

Senator Stavisky on the nomination. Certainly, sir, you may remain seated.

SENATOR STAVISKY: I attended the meeting of the Higher Education Committee and as the ranking Minority member of that committee, I want to share with you my perception of the candidate.

We are not gauging anyone who is unfamiliar with the issue. We are responding to a request by the Governor to have an appointee who agrees with his position on affirmative action and on access to the

higher education community.

I believe in standards. I am a product of City College at a time when standards were exceptionally high, when members of government, when people who excelled in education, in business, in labor were in attendance at that institution and there were more Ph.D.s from City College and the other senior colleges than any institution in the country could produce.

There were members of the Nobel laureates, and I believe that it is a proud tradition which should be respected. Nevertheless, we are not qualifying her on the basis of her affiliations, on the basis of her background in finance, which admittedly is exemplary, or in business. We are dealing with a candidate who will have to vote on the issues of access.

I believe that there will be a chilling effect on access if we go along with the position taken by the CUNY trustees and we asked her, give us your reaction to the proposal to deny any remediation at the senior colleges and she gave us the conclusion that

she could not judge at this time.

Why do we have to judge at this time someone who has no opinion on access, on affordability, on all of the issues that make attendance at CUNY so important?

If we do not have clear answers from her as to what her views are, forget the views of anyone else, what her views are on the question of remediation at the senior colleges, then why should we be rushed to judgment, simply to provide another vote for this? I think not.

I'm asking my colleagues to vote no in order to postpone a decision which is being made without adequate information.

When asked her views on other issues, on the issue of -- on the issue of privatization, again she said she didn't have enough information. She could not give us a view of her own.

Why then do we rush to provide a confirmation for someone who has not bothered to know what her views are on issues such as access, affordability, privatization and other issues that are before the SUNY

trustees?

We have an obligation to the City University board to make certain that we are not empowering an individual on the basis of an estimate but rather a basis on what her views are, and I think that we should not be rushed to judgment unless she herself shares with us her views on these issues.

I predict that if we are prevented from offering remediation at any level, including the senior colleges, it will be a sorry day for the City University of New York. We will be gambling with the future of CUNY. We will be gambling with the future of the -- of the institution and also the future of the city.

We are all products of immigration. We're all products of offers that can make for a very difficult decision, and I would not wish to saddle the City University trustees or the City University with a person who is being pushed for appointment simply because she agrees with the Governor's position on this issue.

We have a right to know what

her position is on such issues, of access, of the opportunity for people who need the City University of New York in order to fulfill their destiny and we have an obligation to know what the impact of privatization will mean. We have not been given a clear-cut answer to any of these questions and we cannot go with hunches. We cannot go with projections as to what she is thinking of if she cannot tell us clearly, definitively what her views are on these issues.

And so, my colleagues, with no disrespect to the sponsors, with no disrespect to Senator Marchi, I ask you to evaluate this candidate. She has not any views on remediation at senior colleges. She has no familiarity with what this means in terms of access for ethnic minorities and other minorities. She has no understanding of what these issues mean in the reality of the City University of the city of New York.

I ask you not to go so fast. Give her the time to learn and then to respond and then when she has time to learn and respond, I think it's time enough for us to

make a judgment regarding her.

So I ask for a vote of no because I believe that she will do a disservice to the access and availability of free higher education or relatively a free higher education in the city of New York, and I believe that we should go slowly as she wishes to go slowly and not rush to judgment.

For these reasons, I ask that there be a "no" vote temporarily until she can develop some views of her own and we have a right to know those views and we should not be signing a blank check for any person wishing to be a trustee.

I will recommend a "no" vote because I believe that City University is entitled to standards that will prepare the graduates for opportunities in the 21st Century, but we should not rush to judgment.

I, therefore, ask -- I will be voting no. I, therefore, ask my colleagues who believe in access to do the same thing with their votes.

Thank you.

ACTING PRESIDENT MEIER:

Senator Mendez.

SENATOR MENDEZ: Mr. President, at times when I take a position that differs with the position taken by some members of my party, I ask myself the question, must I do like the salmons and swim against the current?

It seems that there are instances in which that must be the case. We are talking here of a woman who presented her background and points of view in the Finance Committee meeting. I was -- it's a very fascinating thing that with so many people there, each one get -- each one of us gets a different perception of the woman, Mrs. Kathleen Pesile, and I want to tell you why I'm supporting her. I will be voting for her.

First, we're talking about a woman that was born in poverty. Her family had to take welfare. She was a welfare recipient, a woman that worked very hard, that is a graduate of City College and that attained in the economic area of our society a place of distinction.

Oftentimes it happens that when somebody comes from a very, very humble origin and they achieve the big standards in society, they don't want to hear anything that reminds them of their usual origins. This woman is totally different. She's very comfortable with her background and her efforts and she has chosen, besides being a 20-year adjunct professor, to on her time over the weekends, to teach, instruct and help students from City University and most of them students of color.

The one question that she did not answer there in the Finance Committee meeting was her position of -- on remedial instruction.

Now, the sad reality is that the situation of remedial instruction has become a political football, Mr. President, and everybody is engaging in a ridiculous rhetoric about the whole thing.

I support it. I support access to higher education because we all know that the sons and daughters of previous immigrants were able only to make it and succeed economically in this country only through

education and, if education is denied to our people, then they will not get anywhere and we will be included in a permanent economic under class in the country and not very well, sir, but the political rhetoric that governs the issue of remedial instruction is such that people are -- because she answered that question and she just said, I want to gather the necessary information to get all my facts together. Why should I doubt that, in fact, this woman that has a history of being an achiever and responsible in many areas of human endeavor, why should I doubt that, in fact, she is sincere in saying that at the present moment she wants to engage in further research on the issue?

I don't know what her position is. I only know that this is a woman that, in my view, has shown sensitivity to the students that we in City College know must have a genuine opportunity. What surprises me in all of this rhetoric, Mr. President, is that for 30 years, 30 long years, as a result of the decentralization law, the Central Board of Education was in charge of managing and

supervising instruction in high schools. They have done an abominable -- an abominable job with no public -- no public accountability whatsoever.

Recently we also know that that same Central Board of Education for the past years have done another abominable and irresponsible job in the area of education. Nobody is casting aspersions in that body that should be disbanded, if I would have my way.

So, Mr. President, I disagree wholeheartedly with my friends and my colleagues on this side of the aisle that do want to deny this woman with a proven record the opportunity to contribute to the betterment of the City University.

I don't think that the -- that the issue of access is at stake. I don't think that she would be voting for preventing access to students of poor families and minorities to go into the university because she herself was a member of that socioeconomic class way before, and I think that she could contribute and will contribute wisely.

So, Mr. President, I will

support her nomination.

Thank you.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

Senator Mendez has raised some good points about the qualifications of the individual and how those qualifications moved into other areas, may bring the individual in touch with what the duty of serving on the CUNY board may be, and I certainly hope that Senator Mendez is right.

In fact, this particular nominee, Ms. Kathleen Pesile, we need Senator Mendez to be right. We need Ms. Pesile to achieve. We need that because we have students who are at college level who unfortunately are not up to the standards of times that we would like. We have students going through the CUNY system who, in spite of what they may even learn there, may not have the opportunities to work and become members of our society in a working capacity to the extent that we would like.

We have right now a system that is very much under siege and we need independent voices who are going to serve on that board and are going to bring distinction by doing something Senator Mendez was talking about, going against the tide, going against the flow from time to time.

Now, I have never met Kathleen Pesile, and I want to wish her the best at a point that she might accede to the CUNY board. Her resume certainly demonstrates great proficiency in a number of areas, and I don't think that this is an issue about her personal ability, which I think is quite distinguished as was described by Senator Marchi and Senator Mendez.

The issue is that in the past I have stood here and I have wanted to get up and talk about some of the nominees, and I really just couldn't, and the reason I couldn't was because I was imagining myself sitting in the gallery. I imagine myself coming to Albany knowing I would be ready to work hard, knowing that I really have some principle and some conviction and would not

like to see my record torn down by people on the floor who don't even know me. So we're not even going to do that because it's not an issue of this nominee, Ms. Pesile, because her distinctions stand on their own.

This is an issue of what the CUNY board is actually established for. This is an issue of what we are as legislatures - legislators charged to do in this chamber with respect to nominations.

This is a policy decision that we're looking at. Now, we know that it has been stated pretty openly that there are some changes that the Governor would like to make with respect to the way our City University of New York is operating, that there would be a denial of what were previously accepted opportunities, that we would be in some ways diminishing access at some points and we would also be not allowing for the level of remediation that we have allowed to this point.

We're talking about students who have graduated high school, students who have come through some of the most difficult

challenges of our time, poor housing, substance abuse, crime, an often failed education system, an often failed mental health -- an often failed health care delivery system and somehow through those issues they have come through it and graduated high school, not always with the ability that we might have desired but certainly with the credential that they are eligible to receive a college education, and what we are saying is that since they've demonstrated the determination and perseverance to get to the point that they are now, the expenditure for the remediation that they would need so that their true ability would come out is something that we endorse.

Some don't feel that way. We respect that point of view but what we are doing right now is now taking what are the issues of the day and using them as the test to appoint individuals where their service will actually extend far longer than what the controversy of today's issues are, and there is where I think we are remiss in constituting boards because we are not understanding the

distinction of leadership. We are not bringing leadership to these boards as much as we are bringing support for political positions that are currently seasonable and in doing that, we, in my opinion, diminish the integrity of all boards for all time.

We have got to bring to the CUNY board, as well as any other institutions, that integrity that is not just ephemeral but something that stands for some period of time.

Leaders are individuals who stand on their own judgment. Non-leaders are those who follow the opinions of others. Leaders think. Followers copy. Leaders produce. Followers simply go along. Leaders are concerned with the prospect of nature. Followers are concerned with the prospect of single issues. Leaders come to decisions through a free and open exchange of ideas and opinions with others. Followers want to herd people like brainless, thoughtless robots into any other opinion other than their own.

We come on earth as individuals with really just our minds. We come on earth quite unarmed as human beings. Our brain is

our only weapon, but we must remember that the mind is an attribute of the individual. There is no such thing as the collective brain. The person who thinks must think and do for themselves. The thinking and reasoning mind cannot be subordinated to the needs, opinions or wishes of others, and that is where I think we are going in a very, very circuitous and wrong direction by at this point looking at what may be the political battles of the day rather than the selection of individuals who have spent their lives educating themselves about the particular issue for which they are being appointed, which in this case is higher education.

So without any ill feeling or malice toward the individual, who I hope will prove me wrong because the young men and women of New York City who are college age and eligible need it.

However, Mr. President, I cannot support this particular nomination.

ACTING PRESIDENT MEIER: Senator Markowitz.

SENATOR MARKOWITZ: Thank you

very, very much.

First off, Senator Marchi, whenever you have such glowing words for a resident of Staten Island, I immediately take attention because I know that you don't use your words lightly and you're very sincere and I'm sure Ms. Pesile is one of the most outstanding products of Staten Island, that borough that's on the other side of your Verrazano Bridge, but during the administrations, Republican or Democrat, I have always supported a gubernatorial appointment whenever -- whenever possible, which has been 99 percent of the time, but there comes a time every now and then, even though I believe that chief executive has a right to select the men and women around him or her, in this case, it's not the person necessarily but the symbolism of what I believe can be the outcome.

Many of us, including myself, are a product of the City University. The marks, when I approached college, was such that I elected to go to the evening college for nine years and worked full time during the

day for a number of different reasons. I had to do that anyway, but I certainly would not want to put any student today, if they can have a choice, to go to school at night and to defer their graduation four-year cycle to a period of eight or nine years the way I had to do it.

I think that all of us share a goal, and that goal is that the more of our younger people that attain a higher education are the more young people as they grow into adults that will be productive residents of the state of New York and certainly of our nation and, therefore, the criteria that we should use is how do we educate more rather than how we wind the City University down to a level that you may feel will enhance the college's reputation and, as I look at it, will do damage for those students that need this education the most.

Now, the truth of the matter is that for many years, as you well know, this state government starved -- starved the city of New York in many ways in terms of the level of funding as opposed to many areas outside of

New York City and secondly we in New York City didn't do such a great job ourselves. This is not blaming one state or one city, but rather there's fault to go around, but certainly the end result of that was that too many of our kids from neighborhoods that are most challenging were not provided the best education that this society owes them. There's not a question about it.

Now we're saying to them that not only do we slap you one way but now we're going to slap you another way and that we're not going to allow you to be able to take these remediation courses that will bring them to the level that will give them every ability to compete and to become a college graduate, get a Master's Degree and a Ph.D., business degree, or whatever their life may bring them.

And so, Senator Marchi, my colleagues, the reason why I have to vote against this appointment, why I have to and why I pray that I'm wrong in this appointment in my vote and I hope in a year from now this nominee will be able to call me on the phone and say, Marty, your words and others around

this room were such that you realized as someone who struggled in your life, let's not forget that struggle or deny the opportunity to those that come after us, that the purpose of the City University, both the junior colleges, community college and the senior colleges, is to offer the greatest educational opportunities to the greatest number of our students. Let's not close the door but let's open our arms and open the doors and give every child, every student in this state, an opportunity to reach for the stars.

Thank you very, very much.

ACTING PRESIDENT MEIER: Senator Holland.

SENATOR HOLLAND: Mr. President, could you read the last section of the bill and allow Senator Saland to speak - to vote, rather, on the nomination.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: Aye, Mr. President.

ACTING PRESIDENT MEIER: Senator Saland will be recorded in the affirmative.

We'll withdraw the roll call. We're back on the nomination.

Senator Lachman.

SENATOR LACHMAN: Mr. President, I do want to speak on this, but I believe that the ranking Democratic member of the Finance Committee wanted to speak and I defer to him, Senator Gold, and I'll speak after him.

ACTING PRESIDENT MEIER: Senator Gold.

SENATOR GOLD: Thank you very much, Senator, Mr. President.

Mr. President, if we get really back to basics, the reason for what we're doing today is constitutional and we have a mandate and the mandate is that whether we agree or do not agree with somebody's ideology, the issue is whether the person is qualified and it's quite obvious that during

the Carey-Cuomo years, members on the other side of the aisle were confirming people whose ideology they may not have believed in, but in all candor and in fairness to the Constitution, you were confirming people who were qualified.

The CUNY board has a huge responsibility and I'll tell you, I don't mince words too often, but the present chairman of that board, in my opinion, has, well, say been a disaster, certainly hasn't lived up to any hopeful expectations. The board itself has raised questions and that to some extent may be our fault, and the reason I say that may be our fault is because the way we do our confirmation process, I respectfully suggest to my colleagues, should be changed.

Years ago we didn't even take the confirmation process seriously and I remember when I came to the Senate and I said, you know, this is something which is a constitutional mandate. Why don't we take this seriously and it happened to be Governor Rockefeller at the time and people weren't interested in listening to me. The minute we

got to Governor Carey, the Republicans in this house said, You know, Manny, you had a terrific idea. We're going to take a much closer look at the nominations. Well, for whatever reason, we now do take a closer look, except that what happens is that there's a game in the confirmation process and while we joke about it, maybe it's time that as a collective body we stop joking about it and we change it. We tell people -- and I'm part of that problem -- we tell people if your confirmation is two minutes, it's better than if it was ten minutes and if it's 30 seconds, you did terrific and the best way to get through is don't know anything.

Well, I think the United States Congress goes too far the other way. I mean, they can hold confirmation hearings for 40 days, but some place in the middle it makes some sense to make an adjustment.

The confirmation yesterday, for example, of our very distinguished colleague, John Daly. Now, many people in this house have voted with John Daly or against John Daly on certain energy issues. Nobody was

concerned yesterday as to his position on one particular issue or another. Nobody questioned that the man was qualified.

So when we were asking questions in the Committee, it really wouldn't have mattered too much constitutionally if this lady had said that she felt one way or another on certain of these issues or if she was leaning one way or the other, or if she had a prejudice one way or another. I'm using prejudice in a decent way, not in a bad way. That, in my opinion, would not have led to a disqualification, but if you have somebody who is asked what are legitimate questions and really, really borderline questions -- as a matter of fact, I would say superficial but they weren't, but they're so borderline. Nobody in the Committee was asking the candidate to go deeply into hidden items that may come up in front of CUNY. They weren't picking apart a statute. These were very generalized questions in areas that have become very, very well known in the media.

At one point the candidate said or somebody suggested -- I don't know whether

it was the candidate -- somebody suggested that somebody shouldn't have to read the New York Times in order to find out information, that somebody should be on the job and really in the middle and as I pointed out, I'm certainly the last person to suggest that the press ever gives you anything right regardless of what it is, but you certainly know there's an issue. Whether you believe they're reporting or not, you know there's an issue.

Now, the problem that many of us had in the Committee was how do you say you want to serve on a board and not understand that there's an issue out there and what human being hears that there's an issue and doesn't get some reaction?

The normal response of most people I know is that, when you hear about an issue, you say, Well, gee, it sounds to me this or it sounds to me that, and if the candidate had said, Well, I know there's an issue out there and I know the board did something. I think the board may be right. I'm not adverse to taking a look when I'm there or I think the board was wrong and I'm

not adverse to taking a look, you get a feeling that someone is leveling with you, and I think that is the disappointment that many of us felt.

Somebody said at the Committee meeting that the Daly -- Senator Daly example was not really a good example because almost everybody that comes before us has no experience, and I didn't answer it at the Committee, but I'll answer it here. That just really isn't so. My friends, that isn't so.

We have throughout the years confirmed people to the Parole Board who were parole officers. We have had people go to the Corrections Department who worked their way up. We have had bankers who go to the Banking Board and people in the insurance business who go to insurance boards and all of the time we get people who have experience. Do we have some people with no experience and the answer is yes and we ask them questions and that is the proper thing to do.

I have made the suggestion that in the future to avoid this problem maybe we ought to undertake as a Minority -- maybe even

as a Majority, God willing next year -- to send letters to nominees of a governor and say, Look, you're going to come before the Committee. We're interested in these areas. Please take a look at them before you get here, but this is a legitimate area of inquiry.

I want to turn to the nominee with a little more specificity. The nominee gave an opening statement, which I believe was very well prepared and probably very sincerely given, but I wrote down a couple of the words that were being used. So the nominee said she would like to be on the board so she could be a "facilitator". I asked her a question: What is it you want to facilitate? She said that she wants to be there to help make the changes, and I said tell me one of the changes and that's where the problems started to develop because she would not give us an area that she wanted to facilitate or a change that she wants to make and somebody, one of her supporters, said, Well, look, when the person gets there, you will be in the middle of a fight and why should you have to guess when

all this other information is there, except that this particular nominee has been an adjunct professor in the classrooms and she's proud of it and I'm proud of her for being in the classroom, but if you're in the classroom and you see on a day-to-day basis or even if it's weekends, you see what's going on, you must have some inclination of what you want to do. You've got to, and the disappointment that we had was that inability to come forward.

I want to lastly address one other issue. There is no doubt in my mind that, if you take a look at the background, you say you have a woman of humble beginnings, a woman who worked her way up, a woman who sincerely wants to do the right thing, and I don't want to attack people who are not here to defend themselves, but Herman Badillo is a person with a very exceptional background, a Borough President, a Congressman, done many things and he is certainly a man who has brought success and dignity to himself. It doesn't mean that I agree with the conclusions that he reaches on a particular issue.

This woman has done wonderful things in her life and she should be proud of her life as Senator Marchi has set it forth and he is proud and we all understand that, but the fact that she had a certain background doesn't mean that when she gets on this board she is going to come to conclusions that we may agree with or we may not agree with.

Now, somebody on the other side is saying, Manny, you're talking out of both sides of your mouth. On the one hand, you're saying you may or may not agree with her and on the other hand you're saying this is a question of qualification and she may be qualified if you don't agree with her, but I'll tell you why I'm not being hypocritical.

I'm going to vote against this lady, this very nice lady, this fine lady, because I can't honestly tell anybody she is qualified because she hasn't given me anything in the interview to tell me she's qualified. If she said to me that she was opposed to one of my positions but at least I knew that she knows there's an issue and she's thought it out and came to a different conclusion, I

could say, Oy gevelte, you know -- oh, the stenographer is going to have a problem with that one -- I could say, you know, I'm hurt by the answer, but the woman is qualified. She knows the issues. She came to a conclusion.

In a situation where the person will not acknowledge the issues to the extent of even wanting to be involved during this process, I believe that it is impossible to say that the individual is qualified for this job.

Is she a qualified person? She's obviously an extraordinary person and someone who I would admire in terms of her background, but that's not my job today. My job today is to make a constitutional determination as to whether or not the person who is nominated by the Governor is qualified for this position and based upon what I have said and what others have said, I cannot in good conscience vote for the individual.

I do it with regret to my colleague, Senator Marchi, for whom I would like to be the head of the fan club and for whom I have the greatest esteem, but I really

do believe that we have to change our process. We have to encourage candidates to be forthright instead of hiding behind I don't know, and I think that will benefit all of us and lead us to a better class across the board of nominees.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Maltese -- I'm sorry. Senator -- all right.

SENATOR LACHMAN: I defer.

ACTING PRESIDENT MEIER: Senator Lachman, I apologize. We went out of order, and I lost my place.

Senator Maltese and then Senator Lachman.

SENATOR MALTESE: Mr. President, it seems to me that what has occurred here brings to mind a saying we have in the law, when you have a good case on the law, you pound on the law. When you have a good case on the facts, you pound on the facts and when you have neither, you pound on the table.

In this case what we've seen,

with the exception of Senator Gold, is a raising of the level of noise and a raising in the level of rhetoric about a candidate who is eminently qualified.

For a while, as Senator Gold spoke, I thought perhaps he had seen the light and was going to agree with the confirmation of this candidate. He spoke about our constitutional duty and spelled out that it was our duty during prior administrations to rule on the qualification of candidates and confirm or not confirm based on those qualifications.

I had the opportunity to sit in on the Higher Education meeting where this splendid candidate spoke and had an opportunity now to go over her qualifications. I certainly yield to the oratorical skills and the wisdom of my good colleague Senator Marchi who well spelled out every single reason why this candidate deserved our support and endorsement and certainly Senator Mendez who spoke so eloquently and arrived at the same conclusion.

I've sat in this chamber

through a prior administration and now through the confirmation of Governor Pataki's appointments and seldom do -- I do not recall another instance where a candidate was so well qualified.

At the Higher Education meeting I heard that perhaps 20 years -- 20 years as an adjunct professor, an adjunct lecturer at the College of Staten Island, City University of New York, the same university that she will be asked to sit in as a trustee does not qualify her to sit as a trustee, where a background second to none in financial planning, investment advisory, a leader -- I heard about the qualifications of a leader from the distinguished Senator Paterson and a long recitation of what makes a leader and then did not arrive at the same conclusion as my eminent colleague as to whether or not this distinguished candidate falls into that category.

Putting aside the views on remediation which so many of my colleagues have arrived at after a great deal of study, of documents, no one can say that this

candidate is not eminently qualified. No one can call into question either her character or her qualifications.

With the financial difficulties and problems facing the City University of New York, to have a candidate of this financial stature and background and experience on the board will serve the ends of not only we in the Legislature but the taxpayers and ultimately the students who can rely on her expertise so that there can be a delegation of resources that will benefit the students in the end.

We heard -- we heard about her answers to questions. She gave the same answers that I would hope as a trial attorney to receive from a juror. What she said was that she had an open mind. What she kept saying was that she had an open mind, that based on the facts and based on discourse and based on interrelations with her fellow trustees and relying on information she had from that 20 years and the information she had in the school of hard knocks and the experience she had gained from her colleagues

and her friends and her neighbors and people at the City University of New York, she would make a decision but that she did not have the advantage that the present trustees had in many cases of amendments and documents and remediation plans and a horde of documents that came before us as members of the Higher Education Committee. I asked a question of the nominee -- I asked the question, does she know what she's in for and she has indicated that she does.

Earlier today discussing it with some of my colleagues, we talked about some of the visits that many of us have had from opponents and supporters of the City University of New York, of supporters and opponents of remediation, and many people had indicated that they had picketed and we saw the emotions run so high that a legislative colleague, the chairman of Higher Ed' for the, I like to call it the lower house, was actually arrested and spent the night in jail as a result of the intensity of feeling and the intensity of discourse about this remediation issue and this candidate honestly

said she had not had the advantage of reviewing all these documents and thus was unwilling to state a complete opinion. Of course, she has opinions pro and con but they are not based on all the facts and she feels the jury is still out.

Are we to take her to task for this? I say no. I say she has the background. She went through the same trials and tribulations and travails that many of the present students in CUNY had, and I don't want to go into remediation because we could spend the rest of the day and probably the rest of the week on remediation as the present trustees and the Faculty Senate and the presidents of CUNY and the chairwoman of the board and the chancellor have spent all of the time in the public press and at meetings and still have not arrived at complete conclusions as to whether or not it is completely the right path.

There was mention made here about giving the Governor -- agreeing with the Governor's choice and giving the Governor the opportunity to pick his choice. Well, I say

the conclusion arrived at by some of my distinguished colleagues is hogwash. They say, I agree that the Governor should be given the right to select his choice except when I disagree, except when I believe that I have looked into the mind of this candidate and have come to the conclusion that she's going to disagree with what I feel remediation should be in the City University of New York.

Well, my good colleagues, Mr. President, everyone seems to agree that our present system and our present program is a disgrace. Everyone seems to agree that we are not serving the best interests of those students that we proclaim that we exalt above all others and want to help.

The present situation is not only a disgrace but it has called into question the credentials of all prior graduates of City University of New York. We all took great pride in the City University of New York educational system and we want it to be better. Perhaps we disagree as to the path to make it better.

Well, the present chairwoman of

the board and the present chancellor and the present trustees are taking action to remedy an intolerable situation and the Governor seeks to put an eminently qualified woman with impeccable credentials on that board.

The only thing I question is why anyone would subject themselves to the abuse, to the questions, to the picketing and what she will face in the coming weeks and months and years of her term, but she has chosen to give back, chosen to give back to the City University that has placed her in the position that she can attain this exalted position, to make the decisions to help those who follow in her path.

I say, Mr. President, she deserves that opportunity. I'm proud to join my colleagues, Senator Marchi, Senator LaValle, Senator Mendez, in the support of this distinguished candidate, and I move for her confirmation.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Mr. President, three weeks ago several old friends

of mine called to alert me to the possibility that there would be a nominee for the CUNY Board of Trustees before a very important vote that the CUNY Board of Trustees took two and a half weeks ago.

I approached Senator LaValle, who was in the chamber, and I also approached Senator Marchi, who was in the chamber, and I told them it would be highly unseemly for the chief executive of the state of New York to appoint a member to the CUNY Board of Trustees three or four days prior to a most important vote on remediation, where she would not have the opportunity to meet with the various constituencies of students and faculty and parents to decide what her position would be. The unseemly is even aggravated by the fact that the faculty of CUNY has had a contract outstanding for two years and I hope will soon be consummated and given to them.

Fortunately, the chief executive had the wisdom not to present the name of Kathleen Pesile prior to that vote and I must tell you, unfortunately, the vote went against what I thought it should go.

Three weeks later we have this lady's name. Three weeks ago we could have had a referendum on the best process for remediation. Today the vote is for a candidate, a candidate who does or does not have the ability to take on a very difficult assignment and grow in this assignment and say yes or no to a mayor or governor when he or she feels that is advisable, as trustee John Morning did in opposing the mayor of the city of New York on this vote.

I did not -- I was not present at the Finance Committee meeting but I was present at the full meeting of the Higher Education Committee and -- which started early. Unfortunately there weren't that many present at the beginning, but I, as Senator Maltese and Senator LaValle can attest to, I literally grilled the candidate on various issues, especially the issue of remediation, and there is no question that she did not show her hand, but I want to state categorically that she showed her hand in one area at 9:35 this morning. She is -- she is completely and totally committed to access. If she did not

show her hand in complete commitment to access I would have no problem in opposing her nomination because access to the university is the bedrock of the greatness of the City University of New York.

I do have a problem now because I strongly believe that remediation is necessary on the community college level and that there is no institution as far as I know, public urban institution of higher education in the United States, that does not permit remediation on the community college level.

I also have great reservations on the issue of privatization of remediation that the mayor of the city of New York seems to believe in. This is uncharted territory and could lead to many problems and great damage.

Now, let's not fool ourselves. We have a CUNY today, a fractured board, a torn board, a board with several factions that strongly needs a vital center and strongly needs a person with a potential for leadership and it should not only rest on one issue.

At the early interview process,

I brought to the table, to the chairman of the Committee on Higher Education as well as the candidate, my concern about other issues that are in the domain of a board of trustees of CUNY that have not necessarily been on the forefront recently.

For example, why should a $120 million budget of the CUNY Research Foundation not have a diagnostic independent audit?

Another example. Each president in CUNY -- and there are 18 -- have discretionary funds from 1- to $2 million. Why should not these funds also have a diagnostic independent audit?

I know that the candidate is a member or had been a member of the College of Staten Island Foundation, and I have to commend her for opposing the commingling of restricted and not restricted funds at that college. These are important issues to me as are -- as is another issue.

Why is there an override of $50 million in the construction of the new campus of the City University of New York Graduate Center which adds on $20 million in additional

rental fees each year?

These are issues of major importance that members of the board of trustees must grapple with on a regular basis and not be led around by others who say that this has been the tradition, that there have been audits by administrators but not diagnostic independent audits.

I would urge the candidate, if she is selected, to sever her relationships with the College of Staten Island. I personally believe it might eventually lead to a conflict of interest, to be an adjunct at a college and also to be a member of a board of trustees that decides on faculty, administrative and fiduciary concerns, but after -- I don't want to use the word "grilling" -- a series of questions that took about 15 or 20 minutes -- and this is a very, very difficult decision for me -- and realizing the option -- the options that we have available to us today, I have to admit, as Senator Gold admitted, that this lady is a highly qualified candidate for the position.

Unlike Senator Gold, I am going

to support this candidate for membership on the CUNY Board of Trustees. I think she can become a leader, as Trustee John Morning has become a leader, in the vital center of a very fractious board. I hope I will not be disappointed in this candidate because the University to me is as important as anyone else in this chamber.

I support the nominee.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Mr. President, I'm a member of the Higher Education Committee, and I was there when the nominee appeared before the Committee and, very frankly, I was greatly disappointed with the nominee.

I think we've got to take a look at really what the standards are for the City University. Now, if the standard is only a person, nice person, good character, integrity, hasn't done anything wrong, may have contributed to her community, millions of people qualify for that board of trustees. If that's your standard, then possibly this

nominee will suffice, and let me say from all I see and read and hear, she seems like a perfectly decent person. I'm not questioning her character, and so on, and let me say anybody that John Marchi speaks for right away has a lot going for them in my estimation, but take a look at what we're trying to do and what we should be achieving here.

We have a university system that, indeed, is in trouble. We also have a university system where politics are playing a major role, a role far beyond what politics should do and be involved in in the academic process.

You have, I think a governor and you have a mayor who is seeking to set policy for the University in a manner that I think is wrong and, therefore, what we've seen over the last few years is appointments to the CUNY Board of Trustees not of people of the sort of prestige and standing and achievements that were -- that was true of appointees over the years. You don't see a Stanley Fink. You don't see a Herman Badillo. You don't see people who have achieved a status which will

allow them to represent that university and to exercise a degree of knowledge, independence and commitment that someone who comes from ordinary levels of life -- and I'm not degrading that by any means -- but who cannot perform the same service for the University, and I think this nominee, to my mind, brings absolutely nothing special to the University.

She's, as I said, certainly an intelligent person, a good person, but that's not the standard. We want somebody who can be a true leader, who has shown whether in the world of business or the world of academia or the world of public life some major achievement that you can say this is somebody who can provide the leadership that this university needs and I just don't see this in this nominee.

Now, I was also very troubled, I must say, by the refusal of this nominee to address the most burning issue involving higher education in the City University.

Senator Lachman-- and he is so learned and so knowledgeable -- there, by the way, would be a great CUNY trustee -- raised a

number of issues and they're important but there is, to my mind, a clear litmus test of whether you have the basic qualification to serve on this board of trustees, and that's an issue that's been roiling the waters of politics and the waters of academia in New York for months and that's remediation. There's no other issue that is that important that will tell you as much about where a nominee is and on that issue, when asked about it, this nominee was a blank.

Now, either she wasn't being honest with the Committee that she has views on remediation and if she wasn't being honest with the Committee, then I don't want her on the board or she truly hasn't known about the issue and if that's the case after all of the stories that have appeared about the major debate that's been going on, to have somebody not have any views on remediation, that to my mind disqualifies her also.

I must say that I've heard on the part of people who are supporting her, you know, this hope. Well, we hope she's going to be a leader and we hope she's going to

understand the issues. I think we have a right to demand of the Governor that he provide us with a nominee that has the standing that we can say this is somebody that already has the ability, the knowledge and, as I said -- and I think it's terribly important -- the status to serve on one of the most important boards that we have.

I dislike voting against anyone. I dislike certainly not being able to confirm a person that the Governor has nominated, but I end up by saying that we have a university system that's in trouble, in trouble mainly because it's been denied resources, in trouble mainly because it hasn't received the leadership that it should have from its board of trustees, a system that's in trouble also because of the political interference, particularly by the mayor of the city of New York in his sort of single-minded effort to make that university in what he knew as a university when he attended school in the Bronx, in Manhattan College many years ago.

Remediation obviously is terribly important. Most university systems

have it. Harvard has it. I don't know why the City University can't have it and when you take a look at the student population that's coming to the City University and you take a look at the style that has developed where people, unlike when I went to school eons ago used to -- you graduated from high school. You put in four years and you got your college degree. That's just not the way it's done any longer and remediation certainly plays a role in enabling people to get through the university system, to acquire a Bachelor of Arts degree or at least a community college degree in the style and in the manner that is now in conformity with what the economy and society is like today.

So, yes, we need remediation but we need trustees who understand the issues, who will be candid with the Legislature, who will let us know what their position is and if they don't have a position on a crucial issue, then maybe they've told us that they're not ready to become members of the board to which they were appointed.

I'm sorry to have to say that

this is a nominee I cannot support.

ACTING PRESIDENT MEIER: Senator Smith. Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

The higher education of our young people is something that is near and dear to most of us, and I'd like to give you nine reasons why this nominee should not be voted for in the affirmative:

State Senator Carl Kruger, Brooklyn College; Professor and Dr. Seymour Lachman, Brooklyn College; State Senator Marty Markowitz; State Senator John L. Sampson Esquire, Brooklyn College; State Senator Dr. Nellie Santiago, Hunter College; State Senator Larry Seabrook, Esquire; State Senator Ada L. Smith, Bernard M. Baruch; State Senator Leonard R. Stavisky, Professor; State Senator Alton R. Waldon, Jr., Esquire. Nine members of this body who are the products of City University.

Maybe we did not need remediation. Maybe we had advantages of having an education that was adequate in our

elementary and junior high schools and high school careers, opportunities that may no longer exist in the city of New York; but those that follow us must be given the opportunity to go forth and to get a degree and, hopefully, some of them may serve in this house.

Nine of us, many of us who served on student government, and learned what government was about, prior to venturing into the waters of politics. We have been given a nominee who gives no answers. Will you tell me how are we to judge an individual if they can't answer the questions? We are given a nominee who claims not to understand what the problems of CUNY are. How do you vote for someone that has no knowledge? I certainly cannot, and I think that you have nine good reasons not to vote for Kathleen M. Pesile, who may be the most wonderful, creative individual in the world, but if you cannot give answers, you do not deserve my vote.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes.

Thank you, Mr. President.

I want to make it very clear for the record that I join other colleagues of mine who have complimented, in fact, the accomplishments of Ms. Pesile. I think that she embodies the American dream in the most positive sense, and that is that she came up as a person who was not of means and who has been able to, through her progress through the educational system in our city and having taken advantage of other means and forms of assistance like public housing, and et cetera, has been able to accomplish what I consider to be a very high level of success in the financial world, as well as the education world, and she is, I note, herself a product of the community college system in the city of New York as have been -- and the reason that I say that she embodies the American dream is because that's how many people who came from other parts of the world and found themselves in the City were able to move up, not as necessarily only as an individual but whole communities have been able to -- to advance and develop based on access to free education,

to higher education in the city of New York; i.e., Italian-Americans,i.e., Irish-Americans, i.e., Jewish-Americans and hopefully also African-Americans and Chinese-Americans and Asian-Americans and Latina or Latino-Americans and et cetera.

So I'm really not going to vote against specifically Ms. Pesile because I don't think that it is -- it would be fair to vote against her as an individual, but the fact of the matter is that she -- this nomination represents for us an opportunity to speak to those people who already sit on the board of trustees, as well as Ms. Pesile, as well as the Governor, as well as the Mayor of the city of New York, to say to them in no uncertain terms that the decision that was made by the board of trustees is a life and death decision for entire communities of black and brown people in the city of New York, and the reason that I'm here in this chamber is to represent those people who sent me here and those are the people who sent me here, and I think that the Governor would be disappointed if I did not stand up and say and vote on

behalf of my community and my people because they are the ones who are going to be hurt.

Now, the fact of the matter is that the whole issue that has been raised by the board of trustees that they want to improve the Hispanics, it's like a code word to me. It's the same thing that people say to me when a black or brown family moves into the neighborhood, the property values go down so now that the City University of New York is majority black and brown, the standards have gone down. It's the same argument, and I resent that. It is not the case. In fact, there is no indication that the standards in CUNY, in City University of New York, are any less than they were when anyone in this chamber graduated from any one of those - those colleges.

So that's obviously not the issue. The issue is, who has access to it? Who has an opportunity to strive to meet the standards of City University? That's what the decision has impacted on, and I say that the decision means that in ten years we will not see black and brown people in that system

because they will not have been given the initial opportunity to go in there and at least strive to meet the standards. That, to me -- that is to me un-American and certainly we should not be doing that at this point in time in the development of our nation.

What is this business of leveling the playing field? Everybody says the playing field is now level. Is that the case? Is that what we are doing, leveling the playing field? I wonder -- I wonder what this is all about. So certainly for Ms. Kathleen Pesile, it is not a vote against you, personally. I hope you will understand that, and I think that you will.

It is in opposition to a decision that has been made that means to me that people, young people and older people, older people my age and a little bit younger and a little bit older, who also need access to CUNY in order to enhance their ability to take care of themselves and to support themselves, and to be successful, those people will also be shut out.

So I'm saying to you, this, in

my estimation, is a vote that is -- will send a message, I hope that is very clear and very specific that what has been the decision - the decision that has been made, means the death of my people and my community, a community of black and brown people in the city of New York, and I certainly am voting no to you and to the Governor.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Marchi.

SENATOR MARCHI: Mr. President, I want to recognize that the remarks that have been placed on the record have been done in a very tasteful manner and reflect basic concerns that should be addressed.

Now, initially we heard about other experiences than being an adjunct professor, 20 years as Senator Maltese pointed out. She made presentations on understanding cultural diversity to Howard University in 1993. Earlier she was awarded -- for the College of Jersey City, was awarded the Ethnic Heritage Studies Office of Education in Washington, for the work she did there. This

calls for deep knowledge of a diverse population, and the realization that it's very important to address that in terms of Senator Lachman's word which is fortuitous "access". Access, access!

Now, why am, I exercised, because a Staten Islander is involved? Because she has great merit? It goes a little further even beyond that. In 1993, when I was chairman of New York City, I had a long discussion with Jim Kavanaugh who was then the Budget Director, and Jim at that time, a very fine individual -- I said, "What about the City University?" He said, "Oh, we have no problem with that." I'm using a hypothetical figure. If it costs $1,000 to educate a child or a young student at the City University, and we have $100 million, we just multiply that and then look at the competitive examinations and those who -- those who come within the magic circle to fill the -- that sum of money that is available, and we're going to the merits, I said, Yes, but what about the -- you mean to tell me that if I have 85.5 I get in. If I have 84.4 I don't? Not if you're

qualified.

So I -- at that time, I don't know how many of you from the Bronx remember Ivan Warner. Anybody?

SENATOR STAFFORD: I do.

SENATOR MARCHI: Ivan Warner was a black Senator who became a judge thereafter and passed away a few years ago, and he was unhappy with the circumstances. I had called on Lester Grainger, who was Whitney Young's predecessor as chairman of the -- or president of the Urban League, and had served as Assistant Secretary of Defense during the Roosevelt administration, during World War II, and he was -- he was really suffering under these circumstances.

At that time, Mr. President, despite the number of the Minority that was in the city of New York, one percent were members of the Minority and the 99 other percent were Caucasian. I could not see and neither could Ivan how people who were supporting this system, an urban college and university and at that same time had only one percent. He also told me that he was teaching at Dillard,

Dillard was the university that, at that time, was educating ten percent of the higher university students in Louisiana. They were black. It was Jim Crow, but at least they were getting on a rung of the ladder.

He said, what -- what is our system, one percent? I don't know if that shocks any of you now, because so many years go by, but I immediately took it upon myself to call for a study and report and we reported and I said, This should not stand. This should not stand.

I introduced the concept of open admissions which is being qualified to some extent now, Seek and Discovery, and you're looking at the person that initiated that with Lester Grainger. I don't want to see that destroyed. I want to see people have access. I want to see people go on that board that can deliver, and I am not denigrating anything that you have said here today because I know it comes from the noblest instincts about the people that you want to represent in the best possible way.

We're not going to do that if

we go back to 1963. We mention -- someone mentioned that there were nine students now, nine members, what was it, students, and you were an honor graduate of Baruch, am I correct?

(Senator Smith nods head.)

How many of those nine would have been turned away under the old system? How many? But I would not let it stand, and we introduced legislation. I don't know how many people were here at that time, I think maybe Senator Gold was staff -- were you in 1993, '63? Trade ages with you very happily, but today we don't have one percent. We have the students that you mention and the people who have ascended to major office, as Senator Montgomery pointed out, but they would not have had that opportunity had we not undertaken that initiative vigorously and pressed it home.

I can tell you, as God is my judge, I had Lester Grainger in the office. The guy broke down in tears because we said - they said he was under severe pressure at that time to moderate the report that we had worked

out. So I have a deep and abiding interest. I don't want to see 1963 repeated again. I want to see this system grow on the terms of access and I feel very confident and I wouldn't be so exercised if it wasn't for the subject matter, although I would be out of respect for the nominee and my friendship and propinquity as a neighbor, but I don't want to see us go back. I don't want to see the clock roll back. I want to see that opportunity amplified.

It is my feeling that we will be doing the right thing. We don't campaign for these offices. We campaign to do the best we can. Then we have issue development. Think about this seriously when you cast your vote. It's a very serious problem and, if we are to maintain progress, we need -- we need the people who are like the -- like Kathleen Pesile.

So I implore you, I believe that if you review clips from the old days, you will find that what I told you was absolutely true. There are old clips from the Daily News that were page 2 and 3, on a daily

basis on the events of that -- of those circumstances, in the hearings and the fights that we have had.

It wasn't easy. It wasn't easy. I can tell you that. William Randolph -- not William Randolph, not Randolph -- he was a black union leader, William Randolph, you know, I asked him, he said because he had come in at an earlier session and Ivan had reached out for him on the question of submitting an -- getting the free tuitional thing. I said, Sure, anything you say, but what we have to do is to increase the access of minorities.

He was convinced. He was convinced, as were others, and together we mustered the effort that finally ended in broadening this, and it is not one percent now. I don't know what it is, about 22 percent or 25 percent, but those 22 or 25 percent would still be one percent if we were back to that mentality.

So, Mr. President, let us do some soul searching. This is important, very very important to the people of our districts,

to minority populations which suffered the greatest insult in those days, not consciously or consciously delivered, but that was the net effect, excluding them as the practices then in use prevailed and effectively blocking them while they paid the taxes for maintaining a good system elsewhere.

So it's a serious issue. I know we've taken a lot of time, but it is that serious. I feel very confident that we will be making a distinct contribution to the workings of the City University by confirming this nomination.

SENATOR SKELOS: Mr. President, I believe we've approached the two-hour limit and Senator LaValle will now close on the nomination.

ACTING PRESIDENT MEIER: For the purpose of closing debate, Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President.

This debate really began at 9:30 this morning when Ms. Pesile appeared before my committee which we probably debated

the issue for about a hour, about another hour in Finance and close to two hours here on the floor of the Senate, and I think it really shows that the best of the members and the concern of this body that when there is an important issue, the members will participate fully in the deliberations.

Many of the speakers talked, I think, very honestly about what really we are debating here today, and it really is not about the qualifications of Kathleen Pesile. Senator Paterson, Senator Montgomery indicated the issue is much bigger than the nominee. It was just a matter of time before this body became engaged in the debate about what happened when the CUNY Board of Trustees took a vote to deal with the issue of remediation, and I am sure that the debate -- this is not the last of that debate.

The issue is also the change and some of the things that the board -- the CUNY board are considering, the issues that it is considering begins to change for the first time in two decades the shape of the City University. You notice I said the shape, not

the mission.

Senator Marchi, I always hate to follow you, because of your eloquence and how you can zero in on the issue in a very lawyerly manner. Because this state, this Legislature has for all the time that I've been involved, whether as a staff member or a member of this great body, in higher education, the words "access" and "choice" have been the philosophy of our government. It has been the philosophy of this Legislature and so we will continue to ensure that our citizens have access and choice.

City University is, as I recall, 150 years young. It has a rich history in educating its citizens. All of the immigrants who came and made a stake in this state, in this country and in the City. One of our speakers, I think Senator Montgomery, talked about appropriately all of the generations, and she went right down.

Today in the Finance Committee, I thought the nominee very eloquently talked about her life, talked about her background, but in talking about her life and where she

came from and what she did indicates a sensi tivity to students that are economically disadvantaged, economically disadvantaged. She has indicated as an adjunct professor the kinds of students that she has provided mentoring to, to get them moving forward - people of diverse backgrounds and ages.

So we have a person that is very, very sensitive in terms of what education provides, I think as she has indicated, the latter to excess for many individuals, and certainly understands as she grew up individuals of diversity, whether it was Latinos or African-Americans, specifically mention those groups, and so I find that as she deliberates and listens and uses her great intellect, that she will be making right and correct decisions.

Senator Paterson went through talking about leadership, and so forth. Senator, there's a book that I use with my classes called Lincoln on Leadership. I recommend it to you. The author brings us through the kinds of things that our great President Abraham Lincoln used providing

leadership, and some of those things the author talks about repeatedly is being a good listener, gathering facts, being out among people, understanding what the problems are, so that you can make proper decisions.

The nominee, both in the Higher Education Committee and in the Finance Committee, talked repeatedly about those attributes, listening, gathering facts, understanding the problem and applying a rational decision-making process to coming to a conclusion.

The issue today is not about the qualifications of this nominee. She has superb qualifications. We are not going to resolve the mission of CUNY. We are not going to resolve the remediation issue through this nominee. There are many stakeholders that will be heard from on this issue. There is more in the process before it reaches a conclusion and we, as members, I am sure, will be able to voice our opinion at an appropriate -- at appropriate times during this lengthy process.

If the members on this side of

the aisle or in this chamber wanted to make a point to the nominee that there are members that have very strong feelings about remediation, I think that the nominee has heard that, understands that, but we should not be using the nominee to accomplish some sort of philosophical mission with -- that this is a termination in the debate. It is not, and I think most of you know that this debate has really just begun.

And so, my colleagues, I ask you, as I conclude my remarks, that you reconsider your vote, be fair to the nominee, if you believe that her qualifications are good and that it would bring another point of view to the board in terms of her back ground. I believe it does, and I recommend a vote in the affirmative.

ACTING PRESIDENT MEIER: Question is on the confirmation of the nomination. All those in favor signify by saying aye.

SENATOR PATERSON: Mr. President, slow roll call.

SENATOR SMITH: Slow roll

call.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Please ring the bell, if the members would come into the chamber to vote.

ACTING PRESIDENT MEIER: More than five members having stood. There will be a slow roll call.

Secretary will call the roll.

THE SECRETARY: Senator Abate.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: While we are -- while everyone is coming in, I wonder if I could explain my vote, and I certainly don't want to follow Senator LaValle or Senator Marchi, because what little I can say would deserve little more than a footnote.

ACTING PRESIDENT MEIER: Secretary will call Senator Stafford out of order.

THE SECRETARY: Senator

Stafford.

SENATOR STAFFORD: Thank you. Thank you. And I, of course, am going to second what Senator LaValle said and what Senator Marchi said, and I can say it no better and, of course, I am supporting the nominee with gusto.

I would just say again, I think this was an excellent debate. Someone on the other side mentioned, and I thought it was very sensitive, I wish I could remember exactly who it was, but they mentioned that they come up here and very often they're very hesitant to say anything because they realize people are being considered and here we are in a very major debate, and you sort of wonder, you know, how that person feels.

Well, I compliment the Governor on the appointment because, in my opinion, he has a very capable, very understanding and an outstanding individual who, I think, understands that this was a very heartfelt debate. As a Senator said much earlier today many of us don't agree, but really that's what this country is all about.

So with that, Mr. President, I just say that I find when you have candidates or nominees going before a committee, it depends on where you're sitting on how you feel the candidate or nominee is answering questions.

Again, keeping that sense of humor from 1974 to 1994 I sat in a certain position where I sometimes had the frustration of what some people are feeling today. I, for one, do feel strongly that a nominee should not have all the answers. I think it's a mistake for a nominee, whether it be in Albany or any other place, to go in and start telling or sharing with anyone exactly what their decisions are going to be because they don't know until they get confirmed, appointed and take up the responsibilities and receive all the information.

But I would say with the nominee present, I think this was an excellent debate. I think it was constructive. I disagree with a number of people who spoke but with that, I want to join in supporting a very fine candidate, a candidate who I think will

do an excellent job, Kathleen Pesile, and thank you for being here.

ACTING PRESIDENT MEIER: Senator Stafford will be recorded in the affirmative.

The Secretary will resume the slow roll call.

THE SECRETARY: Senator Abate.

SENATOR ABATE: No.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

SENATOR BALBONI: Aye.

THE SECRETARY: Senator Breslin.

SENATOR BRESLIN: No.

THE SECRETARY: Senator Bruno.

(Affirmative indication.)

THE SECRETARY: Senator Connor.

(Negative indication.)

THE SECRETARY: Senator Cook.

SENATOR COOK: Yes.

THE SECRETARY: Senator

DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just to explain my vote.

I had a discussion with the chairman of the Finance Committee in the Finance Committee about my view about nominees who come before the Finance Committee and aren't prepared to offer an opinion about the most controversial issue that the board we're appointing them to has had to deal with in the past and will have to deal with in the future.

I made my views clear in the Finance Committee. Unlike some, I look at this as an election. This is a person who is coming to us to be elected. We have a simple duty, either cast a "yes" vote or "no" vote and I would just suggest that all the comments made about being open-minded and keeping your options open and gathering information, I would just suggest to everybody in this chamber, go to your voters the next time you

want their vote and tell them that, and I'll tell you what they'll do. They won't give you their vote. The reason is because they say you aren't prepared; you aren't willing to make a decision and you aren't willing to tell us what you will do when they elect you, and so, therefore, they'll say, "I'm not going to vote for you."

In this case, because I believe this candidate has not done that, has not told us what she'll do, I am reluctantly going to vote no.

ACTING PRESIDENT MEIER: Senator Dollinger will be recorded in the negative.

The Secretary will resume the roll call.

THE SECRETARY: Senator Farley.

SENATOR FARLEY: Aye.

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Aye.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: Mr. President, if I may explain my vote.

As much as I respect my fellow colleague from Staten Island, Senator Marchi, and take to heart greatly what he says and the opinions that he expresses, I also -- I also value highly the opinion of member of my party Senator Stavisky, and his questions and some of the questions that were raised by members of my Conference here as to this nominee, and as much as I would, as a Senator representing a portion of Staten Island, be proud and willing to support a fellow Staten Islander, I must say that I am troubled -- troubled greatly by the questions raised here by many of my colleagues concerning -- concerning this nominee.

Certainly, in accord with Senator Marchi, her resume is quite impressive. I'm sure she is a fine, fine woman and something -- someone that, in other circumstances, I certainly would -- would support. In this instance, however, given the concern I have for the issues raised in regard to -- to CUNY and the future of CUNY, I have a

responsibility to the students in my district and to the families in my district, whether those families be from Bensonhurst, Bath Beach, Rosebank or Midland Beach, I have a responsibility to those families and to those students that questions that were raised here today have some answers.

Now, I'm told from my colleagues that at the -- at the hearing this morning, those questions were not answered by the nominee, and there was no indication from the nominee concerning some of the -- the issues that were raised. It's unfortunate, I must say also that being a Staten Islander and representing -- having part of the Staten Island -- I represent part of Staten Island, that the nominee did not take the opportunity to reach out to me and speak to me.

I believe the nominee is aware of the fact that there are only two -- two state Senators representing Staten Island.

ACTING PRESIDENT MEIER: Senator Gentile, the time established by the rules to explain your vote has expired. How do you vote?

SENATOR GENTILE: Had she done so, it might have been different.

ACTING PRESIDENT MEIER: Senator Gentile, how do you vote?

SENATOR GENTILE: But my vote at this point is in the negative.

ACTING PRESIDENT MEIER: Senator Gentile will be recorded in the negative.

THE SECRETARY: Senator Gold.

SENATOR GOLD: Mr. President, in explaining my vote, and I hadn't intended to explain my vote because I made my comments earlier, but I think it's appropriate having listened to the distinguished representative from Staten Island who just spoke, to thank the representative in this house for the opportunity to show everybody what courage really is, and my compliments Senator Gentile, because obviously this vote is one of sensi tivity to you, and I'm sure that some of my colleagues on the other side were wondering what you might do and what this vote has proven is that Senator Gentile understands why he was elected. He was elected to do

something with his seat, not merely to retain it, as some people think you're supposed to do, and to stand up and speak out for the - the youngsters, the students in your district even though people are going to ask you, Why would you vote against a Staten Islander.

Senator, my hat is off to you. That is the kind of courage that this Legislature is all about and, Senator Gentile, that's one of the reasons why I look at you here today and my colleagues will look at you in that seat next year also.

Congratulations!

I vote in the negative.

ACTING PRESIDENT MEIER: Senator Gold will be recorded in the negative.

Secretary will resume.

THE SECRETARY: Senator Gonzalez.

(There was no response.)

Senator Goodman.

(There was no response.)

Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hoffmann.
SENATOR HOFFMANN: Aye.
THE SECRETARY: Senator Holland.
(There was no response.)
Senator Johnson.
SENATOR JOHNSON: Aye.
THE SECRETARY: Senator Kruger.
SENATOR KRUGER: No.
THE SECRETARY: Senator Kuhl.
SENATOR KUHL: Yes.
THE SECRETARY: Senator Lachman.
SENATOR LACHMAN: Aye.
THE SECRETARY: Senator Lack.
SENATOR LACK: Aye.
THE SECRETARY: Senator Larkin.
SENATOR LARKIN: Aye.
THE SECRETARY: Senator LaValle.
SENATOR LAVALLE: Aye.
THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Aye.

THE SECRETARY: Senator Leichter.

SENATOR LEICHTER: No.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Aye.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: If I may, I'd like to utilize the time of explaining my vote to simply extend my deep appreciation to the Governor's choice, my choice, what will be the Senate's choice, and commend her for true courage in her desire to give back and congratulations on what she has achieved in life and what she will achieve in the future.

Godspeed! I cast my vote in the affirmative.

ACTING PRESIDENT MEIER: Senator Maltese will be recorded in the affirmative.

Secretary will resume.

THE SECRETARY: Senator Marcellino.

SENATOR MARCELLINO: Aye.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: Mr. President, for all the reasons I indicated before that I would vote in the negative, and I will, but I urge our new appointee who will be a member, keep hope alive. Keep hope alive.

ACTING PRESIDENT MEIER: Senator Markowitz will be recorded in the negative.

Secretary will resume the roll call.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Aye.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Aye.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: Yes.

THE SECRETARY: Senator

Montgomery.

SENATOR MONTGOMERY: Mr. -

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I would like to explain my vote briefly.

Really it's not so much to explain my vote as it is to go on record here that I want to offer a particular word of gratitude and regard and respect in the highest order for our Senator from Staten Island, Senator Marchi, who has, in my estimation, been -- played such a role -- I'm sorry I did not know the role that you were playing; I had not heard that story or in 1963 and subsequent to the time that you did the report, and you understood the importance of doing something about it.

What you did has changed the course of lives for thousands and thousands of people in the city of New York, and certainly I shall never forget what you -- what you have done, and while I'm not voting the same as you, I certainly have heard the most profound

statement in this chamber by someone who - who had that kind of vision and also the courage and the commitment to do something.

So I thank you on behalf of the people certainly that I represent and the many many thousands of people who also don't know this story that you told today and, Mr. President, I vote no.

ACTING PRESIDENT MEIER: Senator Montgomery will be recorded in the negative.

Secretary will resume.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: No.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: No.

THE SECRETARY: Senator

Padavan.

SENATOR PADAVAN: Yes.

THE SECRETARY: Senator Paterson.

SENATOR PATERSON: No.

THE SECRETARY: Senator Present.

SENATOR PRESENT: Aye.

THE SECRETARY: Senator Rath.

SENATOR RATH: Aye.

THE SECRETARY: Senator Rosado.

SENATOR ROSADO: No.

THE SECRETARY: Senator Saland voting in the affirmative earlier.

Senator Sampson.

SENATOR SAMPSON: No.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Seabrook.

SENATOR SEABROOK: No.

THE SECRETARY: Senator Seward.

(There was no response.)

Senator Skelos.
SENATOR SKELOS: Aye.
THE SECRETARY: Senator Smith.
SENATOR SMITH: No.
THE SECRETARY: Senator Spano.
SENATOR SPANO: Aye.
THE SECRETARY: Senator Stachowski.
SENATOR STACHOWSKI: No.
THE SECRETARY: Senator Stavisky.
SENATOR STAVISKY: No.
THE SECRETARY: Senator Trunzo.
SENATOR TRUNZO: Aye.
THE SECRETARY: Senator Velella.
(There was no response.)
Senator Volker.
SENATOR VOLKER: Yes.
THE SECRETARY: Senator Waldon.
(There was no response.)
THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.
ACTING PRESIDENT MEIER: Call the absentees.
THE SECRETARY: Senator Gonzalez.
(There was no response.)
Senator Goodman.
(There was no response.)
Senator Holland.
SENATOR HOLLAND: Yes.
THE SECRETARY: Senator Seward.
(There was no response.)
Senator Velella.
(There was no response.)
Senator Waldon.
(There was no response.)
THE SECRETARY: Ayes 35, nays 21.
ACTING PRESIDENT MEIER: The nominee is confirmed.
Ms. Pesile, we congratulate you and wish you well with your important duties.
(Applause)
Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room, and the Senate will stand at ease.

ACTING PRESIDENT MEIER: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

Senator Skelos, before we - before we stand at ease, might we entertain some motions? We'll return -- and may we have some order. We'll return to the order of motions.

SENATOR SKELOS: If there is any housekeeping at the desk, could we do that now.

ACTING PRESIDENT MEIER: There are some motions.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I wish to call up Print Number 588-B recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: Calendar Number

1140, by Senator Lack, Senate Print 588-B, an act to amend the Real Property Actions and Proceedings Law.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 61.

SENATOR NOZZOLIO: Mr. President, on behalf of Senator Lack, I now offer the following amendments.

ACTING PRESIDENT MEIER: Amendments received.

SENATOR NOZZOLIO: Mr. President, on page number 29, I offer the following amendments to Calendar Number 947, Senate Print Number 6550, and ask that that bill retain its place on Third Reading Calendar, on behalf of Senator Present.

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

Calendar.

SENATOR NOZZOLIO: Mr. President, on page number 34, I offer the following amendments to Calendar Number 1082, Print Number 5548-A, and ask that said bill retain its place on the Third Reading Calendar, on behalf of Senator Goodman.

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

Secretary will read the substitutions.

THE SECRETARY: On page 5, Senator Balboni moves to discharge from the Committee on Rules Assembly Bill Number 11258 and substitute it for the identical Third Reading Calendar 137.

On page 8, Senator Volker moves to discharge from the Committee on Rules Assembly Bill Number 11177 and substitute it for the identical Third Reading Calendar 281.

On page 9, Senator Volker moves to discharge from the Committee on Rules Assembly Bill Number 11286 and substitute it

for the identical Third Reading Calendar 314.

On page 17, Senator Balboni moves to discharge from the Committee on Rules Assembly Bill Number 11047-A, and substitute it for the identical Third Reading Calendar 618.

On page 20, Senator Maltese moves to discharge from the Committee on Rules Assembly Bill Number 6947-C and substitute it for the identical Third Reading Calendar 718.

On page 20, Senator Trunzo moves to discharge from the Committee on Rules Assembly Bill Number 6875 and substitute it for the identical Third Reading Calendar 720.

On page 21, Senator Alesi moves to discharge from the Committee on Rules Assembly Bill Number 5285-A and substitute it for the identical Third Reading Calendar 733.

On page 28, Senator Larkin moves to discharge from the Committee on Rules Assembly Bill Number 11185-A and substitute it for the identical Third Reading Calendar 924.

On page 33, Senator Goodman moves to discharge from the Committee on Rules Assembly Bill Number 6872-A, and substitute it

for the identical Third Reading Calendar 1079.

And on page 44, Senator Nanula moves to discharge from the Committee on Rules Assembly Bill Number 10751 and substitute it for the identical Third Reading Calendar 1413.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. From the third row bleachers, may we now have the Senate stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(The Senate stood at ease at 3:31 p.m.)

(Whereupon, the Senate resumed at 5:08 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there's a report of the

Rules Committee at the desk. I ask that it be read at this time.

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

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, offers up the following bills directly for third reading:

Senate Bill 3056, by Senator Lack, an act to amend the General Municipal Law;

3180-B, by Senator Maltese, an act to amend the Administrative Code of the city of New York;

4828-A, by Senator Farley, an act to amend the Banking Law;

5542, by Senator Seabrook, an act authorizing the city of New York;

5687-A, by Senator Paterson, an act authorizing the city of New York;

6028-A, by Senator Spano, an act to amend the Vehicle and Traffic Law;

6045, by Senator Lachman, an act authorizing the city of New York;

6213-A, by Senator Johnson and others, an act to amend the Not-for-Profit Corporation Law;

6562-A, by Senator Volker, an act to authorize the city of Buffalo;

6607-A, by Senator Lack, an act to amend the Real Property Law;

6711-B, by Senators Hannon and others, an act to amend the State Finance Law;

6781-B, by Senator Larkin and others, an act to amend the Penal Law;

6863-A, by Senator Farley, an act to amend the Public Authorities Law;

6651-A, by Senator Oppenheimer, an act in relation to authorizing.

All bills directly for third reading.

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

ACTING PRESIDENT MEIER: The motion is to accept the report of the Rules Committee. All those in favor signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The report is accepted.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1472, Senate 6863-A, by Senator Farley.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1472.

THE SECRETARY: Calendar Number 1472, by Senator Farley, Senate Print 6863-A, an act to amend the Public Authorities Law and the Executive Law, in relation to establishing the Schenectady Metroplex.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you call up Calendar Number 1471, Senate 6651-A, by Senator Oppenheimer.

ACTING PRESIDENT MEIER: The Secretary will read Calendar Number 1471.

THE SECRETARY: In relation to Calendar Number 1471, Senator Oppenheimer moves to discharge from the Committee on Rules Assembly Bill Number 9683-B and substitute it for the identical Senate Bill 6651-A.

ACTING PRESIDENT MEIER: The substitution is ordered.

The Secretary will read.

THE SECRETARY: Calendar Number 1471, by member of the Assembly Matusow, Assembly Print 9683-B, an act in relation to authorizing the town of North Castle.

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

ACTING PRESIDENT MEIER: Section 2. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, the Senate will stand at ease.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease from 5:11 p.m. until 5:12 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we could just go to motions and resolutions, I believe there's some housekeeping at the desk.

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

The Secretary will read the substitutions.

THE SECRETARY: Senator Volker moves to discharge from the Committee on Rules Assembly Bill 9414-A and substitute it for the

identical Senate Bill 6562-A.

Senator Farley moves to discharge from the Committee on Rules Assembly Bill 11217 and substitute it for the identical Senate Bill 4828-A.

ACTING PRESIDENT MEIER: The substitutions are ordered.

Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I wish to call up Bill Number 5799-A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator DeFrancisco, Senate Bill 5799-A, an act to amend the Domestic Relations Law.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is -- Senator Nozzolio.

SENATOR NOZZOLIO: Mr. President, I now offer the following amendments on behalf of Senator DeFrancisco.

ACTING PRESIDENT MEIER: The amendments are received.

Senator Skelos.

SENATOR SKELOS: Mr. President, could we stand at ease now.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

SENATOR SKELOS: If we could - that was long enough, Mr. President.

ACTING PRESIDENT MEIER: Okay. I feel refreshed.

Senator Skelos.

SENATOR SKELOS: There will be an immediate conference of the Majority in the Majority Conference Room.

ACTING PRESIDENT MEIER: Immediate conference of the Majority in the Majority Conference Room.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MEIER:

Senator Paterson.

SENATOR PATERSON: Mr. President, I have an original idea. There will be an immediate conference of the Minority. We would have it in the Majority Conference Room, a prelude, so to speak, but we'll have it in the Minority Conference Room.

ACTING PRESIDENT MEIER: Immediate Conference of the Minority in the Minority Conference Room.

SENATOR SKELOS: Once again we will stand at ease, Mr. President.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(Whereupon, the Senate stood at ease from 5:14 p.m. until 6:00 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: Immediate meeting of the Rules Committee in

the Senate Majority Conference Room, and the Senate will stand at ease.

(Whereupon, the Senate stood at ease from 6:00 p.m. until 8:00 p.m.)

ACTING PRESIDENT MEIER: The Senate will come to order.

SENATOR KUHL: Mr. President.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: May we return to the order of reports of standing committees. I believe that there is a report of the Rules Committee at the desk and I move that we accept the report of the Rules Committee after it has been read.

ACTING PRESIDENT MEIER: The Secretary will read the report of the Rules Committee.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 6989-A, by Senator Hannon, an act to amend the Public Health Law;

7249-A, by Senator Present, an act to amend the Alcoholic Beverage Control

Law;

7369-A, by Senator Seward, an act to amend the Tax Law;

7428, by Senator Marchi, an act to amend the Education Law;

7483-A, by Senator Holland, an act to amend Chapter 436 of the Laws of 1997;

7535-A, by Senator Stafford, an act to amend the Tax Law;

7551, by Senator Libous, an act to confer jurisdiction;

7592, by Senator Holland, an act to amend the Social Services Law;

7600, by Senator Marcellino, an act to amend the Environmental Conservation Law;

7647, by Senator Kuhl, an act to amend the Agriculture and Markets Law;

7660, by Senator Present, an act to amend the Penal law and the Real Property Actions and Proceedings Law;

7680-A, by Senator Bruno, an act to authorize the New York State Urban Development Corporation;

7686, by Senator Holland, an

act to amend the Public Authorities Law;

7699-A, by Senator Hannon, an act to amend the New York State Medical Care Facilities Finance Agency Act;

7703, by Senator Lack, an act to amend the Real Property Law;

7715, by Senator Skelos, an act to amend the Election Law;

7721, by Senator Meier, an act authorizing the Commissioner of General Services;

7722, by Senator Seward, an act to amend the Economic Development Law;

7724, by Senator Holland, an act to amend the Education Law;

7731, by Senator Balboni, an act to amend the Economic Development Law;

7737, by Senator Present, an act to amend the Education Law;

7743, by the Senate Committee on Rules, an act to amend Chapter 552 of the Laws of 1995;

7753, by Senator Larkin, an act to amend the Public Authorities Law;

7768, by the Senate Committee

on Rules, an act to amend the Tax Law; and

7734, by Senator Spano, an act to amend the Labor Law.

All bills ordered direct for third reading.

SENATOR KUHL: I move we accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The report of the Rules Committee is accepted.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. I believe for the benefit of the members who are here and who are not here, we have an active list on the desk and also a calendar which is being passed out, Senate Supplemental Calendar Number 52-A, and at this time if we might take up the non-controversial reading of the supplemental active list, but before we do that -

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: -- if we might move to motions and resolutions, and I would, Mr. President, on behalf of Senator Saland, call up his bill, Senate Print 816-A, recalled from the Assembly, which is at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 139, by Senator Saland, Senate Print 816-A, an act to amend the Penal Law.

SENATOR KUHL: Mr. President, I now move to reconsider the vote by which the bill passed the house.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll on reconsideration.)

THE SECRETARY: Ayes 61.

SENATOR KUHL: I offer up the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

SENATOR KUHL: Mr. President.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: If we may now have a reading of the non-controversial calendar, the supplemental active list which begins with Calendar Number 347.

ACTING PRESIDENT MEIER: The Secretary will read the non-controversial calendar from the supplemental active list.

SENATOR LEICHTER: Excuse me, Mr. President.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: Before we do that, have the bills been put on our desks, Senator Kuhl, or could we wait 'til we get the bills?

ACTING PRESIDENT MEIER: Senator Leichter, I'm informed -- Senator Leichter, I'm informed that the bills are on the desk.

SENATOR LEICHTER: They said they're in the book.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 347, by the Assembly Committee on Rules, Assembly Print 8148-D, an act to amend the General Business Law, in relation to providing.

SENATOR OPPENHEIMER: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 712, by Senator Leibell, Senate Print 6543, an act to amend the Real Property Law, in relation to manufactured home parks.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

735, by Senator Wright, Senate Print 6649, an act to amend the Mental Hygiene Law and others, in relation to the provision.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 28. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 830, by Senator Volker, Senate Print 3781, an act to amend the Criminal Procedure Law, in relation to interim probation supervision.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number

1016, by member of the Assembly Sweeney, Assembly Print 9181, an act to amend the General Municipal Law and the Local Finance Law, in relation to making technical and clarifying amendments.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1017, by Senator LaValle, Senate Print 6138, an act to amend the General Municipal Law and the Local Finance Law, in relation to authorizing defined benefit service award programs.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7.

This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1047, by the Assembly Committee on Rules, Assembly Print 11124-A, an act to amend the Environmental Conservation Law, in relation to hazardous waste management facilities.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1087, by Senator Marchi, Senate Print 6725, an act to amend the Tax Law and others, in relation to the payment of state collected taxes to certain public benefit corporations.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6.

SENATOR STACHOWSKI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1279, by member of the Assembly Ortiz, Assembly Print 5968-A, an act directing the Commissioner of the Office of Children and Family Services to study the child care utilization patterns.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

ACTING PRESIDENT MEIER: Senator Kuhl, this would bring us now to the supplemental calendar. That concluded the last calendar. You want us to proceed?

The Secretary will proceed with the non-controversial portion of the supplemental calendar.

THE SECRETARY: Calendar Number 1435, by Senator Lack, Senate Print 3056, an act to amend the General Municipal Law, in relation to giving municipalities the power to prefer bidders.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MEIER: Senator Gold, why do you rise?

SENATOR GOLD: Yeah. I would just like to briefly explain my vote.

Just to Senator Lack, in case this is not agreed upon or in case they want to amend it, I made the point in committee and I was quite serious, this bill, as I read it,

talks about the political subdivision.

In an area such as Huntington, if you were dealing with a water district, they have ten water districts and you can have somebody very active in the county who's two blocks out of the water district, you may want to help them and the way I read this bill, they would be disqualified to get the benefit.

So perhaps Senator Lack on another print may want to make it instead of the district, the county or the city and give it a little more geographic latitude. I certainly don't oppose the idea and I would vote in the affirmative.

ACTING PRESIDENT MEIER: Senator Gold will be recorded in the affirmative.

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1437, by the Assembly Committee on Rules, Assembly Print 11217, an act to amend the Banking Law, in relation to the deposit.

ACTING PRESIDENT MEIER: Read

the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1438, by Senator Seabrook, Senate Print 5542, an act authorizing the city of New York to reconvey its interest in certain real property.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll -- there is a home rule message at the desk. Read the last section -- I'm sorry -- call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1441, by Senator Lachman, Senate Print 6045, an act authorizing the city of New York to reconvey its interest in certain real property.

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

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1442, by Senator Johnson, Senate Print 6213-A, an act to amend the Not-for-Profit Corporation Law and others, in relation -- in relation to combinations.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 16. This act shall take effect in 30 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1444 -

SENATOR STACHOWSKI: Excuse me.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: 1442, could I be recorded in the negative, please.

ACTING PRESIDENT MEIER: Without objection, Senator -

SENATOR KUHL: No objection.

ACTING PRESIDENT MEIER: Without objection, Senator Stachowski will be recorded in the negative on Calendar 1442.

The Secretary will continue to

read -- I'm sorry. Senator Dollinger.

SENATOR DOLLINGER: May I be recorded in the negative on Calendar Number 1442 as well.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar 1442.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1444, by Senator Lack, Senate Print 6607-A, an act to amend the Real Property Law, in relation to real estate agency disclosure.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1.

ACTING PRESIDENT MEIER: Call the roll.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Mr. Chairman, I think I was a bit delayed in voting no on 1442. If I could be recorded in the negative. I was in the -

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

recorded in the negative.

ACTING PRESIDENT MEIER: Without objection, you'll be recorded in the negative on Calendar 1442.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1445 -

SENATOR GOLD: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1447, by Senator Hannon, Senate Print 6989-A, an act to amend the Public Health Law, the New York State Medical Care Facilities Finance Agency Act and the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 40. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1448, by Senator Present, Senate Print 7...

SENATOR OPPENHEIMER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1449, by Senator Seward, Senate Print 7369-A, an act to amend the Tax Law, in relation to the franchise tax.

SENATOR LEICHTER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: In relation to Calendar Number 1450, Senator Marchi moves to discharge from the Committee on Rules Assembly Bill Number 10786 and substitute it for the identical Third Reading Calendar 1450.

ACTING PRESIDENT MEIER: The substitution is ordered. The Secretary will read.

THE SECRETARY: Calendar Number 1450, by the Assembly Committee on Rules, Assembly Print 10786, an act to amend the Education Law, in relation to the prompt payment.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 30 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1452, by Senator Stafford, Senate Print 7535-A, an act to amend the Tax Law, in relation to eliminating the depends tax on assets.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1453, by Senator Libous, Senate Print 7551, an act to confer jurisdiction upon the Court of Claims to hear, audit and determine.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 59, nays 2, Senators Dollinger and Saland recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1454, by Senator Holland, Senate Print 7592, an act to amend the Social Services Law, in relation to county responsibility.

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 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1455, by Senator Marcellino, Senate Print 7600, an act to amend the Environmental Conservation Law, in relation to increasing criminal sanctions.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1456, by Senator Kuhl, Senate Print 7647, an act to amend the Agriculture and Markets Law, in relation to persons exempt from certain regulation.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1457, by Senator Present, Senate Print 7660, an act to amend the Penal Law and the Real

Property Actions and Proceedings Law, in relation to the criminal sale of controlled substances.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1458, by Senator Bruno, Senate Print 7680-A, an act to authorize the New York State Urban Development Corporation to utilize certain funds.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Mr. President, is there a message of necessity at the desk?

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

SENATOR KUHL: I move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye".)

Opposed, nay.

(There was no response.)

The message of necessity is accepted. There is also a home rule message at the desk.

SENATOR KUHL: Read the last section.

ACTING PRESIDENT MEIER: Read the last section -- to correct the record, there is not a home rule message on this. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The

bill is passed.

THE SECRETARY: Calendar Number 1459, by Senator Holland, Senate Print 7686, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

SENATOR GOLD: Mr. President.

ACTING PRESIDENT MEIER: Senator Gold.

SENATOR GOLD: Thank you.

Mr. President, I laid aside 1445. I don't have an objection. If you want to call it up, it can pass.

SENATOR KUHL: Call up 1445, please.

ACTING PRESIDENT MEIER: The

Secretary will read Calendar 1445.

THE SECRETARY: Calendar Number 1445, by Senator Hannon, Senate Print 6711-B, an act to amend the State Finance Law, in relation to damages for delay clauses.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I would just like to explain my vote.

I'm voting yes, but I'm a little bit confused by the bill memo and the intent of the legislation.

The bill memo talks about in the last decade public owners have come to

recognize the value of including non-exculpatory clauses in construction contracts. What I think is meant by that, clauses that basically say you can sue for delay damages.

My practice has been heavily involved in this type of litigation and I think the opposite is really true. The municipalities have no damages for delay clauses.

So the initial premise upon which this bill is done, I think is not a correct premise and rather than -- I think the intent of the bill, however, is to indicate circumstances where you can sue for delay damages and I don't want to get into too much detail, but that's certainly relief that's needed by the contractors.

The concern that I have, though, with the bill, it just talks about all these exceptions where you can sue for excusable delay and it lists what it is. I would hope that it doesn't mean -- and I take it to not mean that you can't sue for other damages for delay. It would seem that you

should be able to sue for non-excusable delay more than excusable delay. If there's an excuse, you shouldn't be able to sue, but in any event, the point is I don't think the bill memo is correct in its premise. I take this bill to mean to expand the rights to litigate when the town or village or municipality is at fault and that's why I'm voting yes.

ACTING PRESIDENT MEIER: Senator DeFrancisco will be recorded in the affirmative.

The Secretary will continue to read in regular order.

SENATOR GOLD: Mr. President.

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

SENATOR ABATE: Yes. On Calendar Number 1453, I would like to be recorded in the negative.

ACTING PRESIDENT MEIER: Without objection, Senator Abate will be recorded in the negative on Calendar 14...

SENATOR KUHL: Mr. President, I don't think you finished the roll call first. Could we do that first and then you can take

some votes.

ACTING PRESIDENT MEIER: We did finish the roll call, Senator.

SENATOR KUHL: Okay. I don't think you announced the results, did you?

ACTING PRESIDENT MEIER: Yes, I did. The bill is passed.

Senator Abate, without objection, will be recorded in the negative on Calendar 1453.

The Secretary will continue to read in regular order.

THE SECRETARY: Calendar Number 1462, by Senator Skelos, Senate Print 7715, an act to amend the Election Law, in relation to the appointment of a commissioner.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read Calendar 1461.

THE SECRETARY: Calendar Number 1461, by Senator Lack, Senate Print 7703, an act to amend the Real Property Law, in relation to computer-based real estate continuing education classes.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1463, by Senator Meier, Senate Print 7721, an act authorizing the Commissioner of General Services to transfer and convey.

ACTING PRESIDENT MEIER: Read

the last section.

THE SECRETARY: Section 6.

This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1465, by Senator Holland, Senate Print 7724, an act to amend the Education Law, in relation to the handling and treatment of pupils afflicted with asthma.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2.

This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The

bill is passed.

THE SECRETARY: Calendar Number 1467, by Senator Present, Senate Print 7737, an act to amend the Education Law, in relation to the lease of school buses.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect September 1.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1468, by the Senate Committee on Rules, Senate Print 7743, an act to amend Chapter 552 of the Laws of 1995.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1473, by Senator Spano, Senate Print 7734, an act to amend the Labor Law.

SENATOR KUHL: Lay the bill aside.

ACTING PRESIDENT MEIER: Senator Kuhl, that completes the non-controversial calendar.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, for the first time in two years, I would like to make a request for unanimous consent to be recorded in the negative on Calendar Number 1442, by Senator Johnson, on page 2, Senate Print 6213-A.

ACTING PRESIDENT MEIER: Without objection, Senator Volker will be

recorded in the negative on Calendar Number 1442.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. May we now take up the controversial calendar after you recognize Senator Breslin.

ACTING PRESIDENT MEIER: Yes.

Senator Breslin.

SENATOR BRESLIN: Mr. President, I request to be recorded in the negative on 1453 with unanimous consent.

ACTING PRESIDENT MEIER: Without objection, Senator Breslin will be recorded in the negative on Calendar 1453.

The Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 347, by the Assembly Committee on Rules, Assembly Print 8148-D, an act to amend the General Business Law, in relation to providing for the regulation.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5.

This act shall take effect on the first day of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 830, by Senator Volker, Senate Print 3781, an act to amend the Criminal Procedure Law, in relation to interim probation supervision.

SENATOR LEICHTER: Can we have an explanation, please.

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

SENATOR VOLKER: This is a bill that came from -- actually came from the OCA and it is not a regular criminal justice bill and it authorizes the court to place a defendant on interim supervision.

SENATOR LEICHTER: Explanation satisfactory.

SENATOR VOLKER: Okay. Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 90 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1047, by the Assembly Committee on Rules, Assembly Print 11124-A, an act to amend the Environmental Conservation Law, in relation to hazardous waste management facilities.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR OPPENHEIMER: Explanation.

ACTING PRESIDENT MEIER: Senator Marcellino, an explanation has been -

SENATOR OPPENHEIMER: No. If

you recognize me.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: I got an explanation already from Senator Marcellino and it's very satisfactory, so I will be voting for the bill.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1087, by Senator Marchi, Senate Print 6725, an act to amend the Tax Law and others, in relation to the payment of state collected taxes.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1448, by Senator Present, Senate Print 7249-A, an act to amend the Alcoholic Beverage Control Law, in relation to restaurant brewer licenses.

SENATOR LEICHTER: Explanation, please.

ACTING PRESIDENT MEIER: Senator Present, an explanation has been requested of Calendar 1448 by Senator Stachowski.

SENATOR PRESENT: Mr. President, in 1997 we created a special license for microbrewers and we sort of cut out current restaurant owners.

This bill would allow

restaurant owners to apply for such a license and if they manufacture or brew only 20,000 or less barrels a year. So it corrects an inequity in the law. These microbreweries and small brewery restaurants have been doing well. They're occupying vacant spaces in many communities, in run-down areas, in abandoned industrial areas. It creates the economy of the state. It creates jobs and makes it fair practice for those engaged in that business.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: Will Senator Present yield for a couple of questions?

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

SENATOR PRESENT: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STACHOWSKI: Senator, in a memo, the New York State Beer Wholesalers Association have some opposition to this bill, claiming that, for one, it's an unjustified exception to New York's tight held statute and

they cite that this law which is embodied in Section 101 of the ABC Law prohibits manufacturers from being interested in retail accounts. They're claiming this prohibition -- that this exception is unnecessary and they're afraid of possible problems that they might run into if different kinds of companies start owning brew pubs.

SENATOR PRESENT: Do you agree with that?

SENATOR STACHOWSKI: I'm asking you the question. Do you think that's a real problem?

SENATOR PRESENT: No, I don't agree with that lobbyist memorandum. You apparently do. You're raising the question. You know, that's business in New York State, competitive business.

SENATOR STACHOWSKI: Thanks. That's the only question I had.

SENATOR PRESENT: Last section.

SENATOR STACHOWSKI: On the bill.

ACTING PRESIDENT MEIER: Senator Stachowski, on the bill.

SENATOR STACHOWSKI: As much as I respect my dear friend Senator Present and as much as I know that brew pubs are a good business, I do kind of agree with the problem that they're citing. I don't know that we want to have these -- I can understand that the brew pub that is -- some of them are restaurants but to have brew pubs owning separate restaurants and retaurants then buying -- opening up brew pubs, I don't know that that's what we want to get into and there's a concern, I guess, lying even deeper that next thing you know some of the larger beer people, for example, Coors would open up a microbrew place and the next thing you know they would be running their business out of that in the locality and eliminating the beer wholesaler.

So that's the real problem that they face down the road that they're talking about and whether it's real or not, I don't know, but I know some small beer wholesalers and I really don't want to put them out of business.

So I'm going to oppose this

even though I don't blame Senator Present for pushing it.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1448 are Senators Connor, Paterson, Sampson, Smith and Stachowski. Ayes 56, nays 5.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1449, by Senator Seward, Senate Print 7369-A, an act to amend the Tax Law, in relation to the franchise tax on certain utilities.

SENATOR LEICHTER: Explanation.

ACTING PRESIDENT MEIER: Senator Seward, an explanation has been requested of Calendar Number 1449 by Senator Leichter.

SENATOR SEWARD: Certainly, Mr. President. This legislation deals with a portion of the gross receipts tax and as we all know and we've discussed many times in this chamber, there is a four and a half percent gross receipts tax that is imposed on our utility bills and even though in last year's budget we had begun to slowly bring down a portion of the gross receipts tax between now and the year 2000, the four and a half percent gross receipts tax is actually made up of three-quarters of a percent gross earnings tax imposed by Section 186 of the Tax Law and three and a half percent gross income tax imposed by Section 186 (a).

Now, this legislation before us deals with that three-quarter percent of gross receipts tax. It amends Section 186 of the Tax Law to exempt the sales or resale by electricity, water, steam or gas corporation from the three-quarters of a percent gross receipts tax. Specifically the sales for resale would be exempted from the definitions of the gross earnings for the purposes of that section.

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.

President.

ACTING PRESIDENT MEIER: Senator Leichter.

SENATOR LEICHTER: If Senator Seward would yield.

ACTING PRESIDENT MEIER: Senator, will you yield for a question?

SENATOR SEWARD: Certainly.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR LEICHTER: Senator, I think we all agree that the gross receipts tax is an unfortunate tax and our concern is, of course, primarily with the amounts that the consumer pays because the tax is passed on to the consumer, but I'm not clear with the exception that you make to the payment of the tax, how that's going to benefit the ultimate consumer, how it's going to reduce their tax bill.

SENATOR SEWARD: Well, very simply, Mr. President. The tax we're talking about, let's be clear here, is not paid by the utility involved, or the electric corporation. It is paid by the ratepayers.

These costs are passed on to the ratepayers and so absent this legislation being enacted into law, that ratepayer is going to be hit with a significant increase in the cost of their electricity because there will be additional tax imposed every time electricity is sold for resale.

So we're just -- we're attempting to eliminate that tax hike and - which translates into a rate hike for the end user, the ratepayer of electricity.

SENATOR LEICHTER: If you'll continue to yield, Senator.

ACTING PRESIDENT MEIER: Senator, do you continue to yield? Senator Seward continues to yield.

SENATOR LEICHTER: I understand how the tax is paid by the ultimate consumer because under the current system the utility, as it sells the energy to a consumer, will tack on the gross receipts tax. Now you have an instance where one utility sells to another utility which may then sell to the ultimate consumer. Are you saying that as the gross receipts tax is presently administered and

structured that the consumer in that instance where there's a resale, that the gross receipts tax allows the pass-through to the consumer of the tax that is paid on the resale, let's say Con Edison sells to Niagara Mohawk. Niagara Mohawk then sells to a consumer, right? That's the situation you're envisaging, right?

SENATOR SEWARD: Yes. It could occur between utilities or electric companies, independent power producers.

SENATOR LEICHTER: I understand. Let's take my example.

SENATOR SEWARD: Right.

SENATOR LEICHTER: If I understand it. Niagara Mohawk sells to a consumer, charges the gross receipts tax, that tax we would like to eliminate it. Now we have Con Edison selling to Niagara Mohawk. Niagara Mohawk has to pay that gross receipts tax to Con Edison -- well, it pays as part of the overall bill the gross receipts tax, right?

SENATOR SEWARD: That's correct, sir.

SENATOR LEICHTER: Now, Niagara Mohawk now sells electricity to the ultimate consumer. I'm not sure that under the law as it's administered that there would be any basis for it to charge to the consumer not just the ordinary gross receipts tax but also the amount of the tax that Niagara Mohawk paid to Con Ed -- paid on the purchase from Con Edison.

SENATOR SEWARD: Well, Mr. President, Senator Leichter is mistaken. The end seller of the electricity is entitled to -- as a legitimate cost or adding to the rate that they charge the end user of electricity, they're entitled to pass through all of the taxes that they have paid.

SENATOR LEICHTER: Okay.

SENATOR SEWARD: That's one of the problems in the state of New York. Those taxes are too high. They'll be even higher if we don't enact this bill.

SENATOR LEICHTER: Okay. So what you're saying, if I understand it, Senator -- in which case this certainly is a good bill -- that not only do they pass on the

gross receipts tax ordinarily paid by the consumer but that all other taxes that they may have paid including any other gross receipts tax that they may have paid on the purchase from another utility can be passed along to the ultimate user and that's what you seek to avoid.

SENATOR SEWARD: That is correct. In fact, it varies from utility to utility, but let's say on the average it's about 17 and 19 cents of every dollar we pay in our utility bill is some sort of tax that's been passed through to the end user and that will increase if we don't enact this bill.

SENATOR LEICHTER: Because there's going to be more resales of electricity.

SENATOR SEWARD: Exactly.

SENATOR LEICHTER: I understand. I thank you for your explanation.

SENATOR SEWARD: Thank you. Last section.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2.

This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

For the information to the members, there will be another Rules Committee meeting called some time shortly and we will take up another Rules report this evening.

(Whereupon, the Senate stood at ease.)

ACTING PRESIDENT SPANO: Senator Larkin.

SENATOR LARKIN: Mr. President, there will be an immediate meeting of the Rules Committee in Room 332.

ACTING PRESIDENT SPANO: Immediate meeting of the Rules Committee in Room 332.

(Whereupon, the Senate stood at ease from 9:40 p.m. until 10:14 p.m.)

ACTING PRESIDENT MEIER: The

Senate will come to order, please.

Senator Kuhl.

SENATOR KUHL: Yes, Mr. President.

May we return to the supplemental active list number 2 and Calendar Number 1473, could we have that bill read, please.

ACTING PRESIDENT MEIER: Secretary will return to the supplemental active list and read Calendar Number 1473.

THE SECRETARY: Calendar Number 1473, by Senator Spano, Senate Print 7734, an act to amend the Labor Law, in relation to unlawfully manufactured apparel.

ACTING PRESIDENT MEIER: Read the last section.

Senator Kuhl.

SENATOR KUHL: Yes. Mr. President, is there a message at the desk?

ACTING PRESIDENT MEIER: Yes, there is.

SENATOR KUHL: I move we accept the message.

ACTING PRESIDENT MEIER: All

those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date as the chapter of the laws of 1998.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Yes. Now, Mr. President, may we return to the order of reports of standing committees. I believe there's a report of the Rules Committee at the desk. I'd ask the Secretary to read it.

ACTING PRESIDENT MEIER: Secretary will read the Rules Committee

report.

THE SECRETARY: Senator Bruno, from the Committee on Rules, offers up the following bills for third reading:

Senate bill 524-A, by Senator Present, an act to amend the Tax Law, in relation to the production of oil;

1342-C, by Senator Stafford, an act to amend the Family Court Act;

1774, by Senator Kuhl, an act to amend the Agriculture and Markets Law, in relation to the use of lands in agriculture;

3311-C, by Senator Goodman and others, an act to amend the Agriculture and Markets Law, in relation to aggravated cruelty;

3449-C, by Senator Marchi, an act to amend the Navigation Law;

4416, by Senator Skelos, an act to amend the Civil Practice Law and Rules;

5202-A, by Senator Nozzolio, an act to amend the Correction Law;

5439-A, by Senator Markowitz, an act authorizing the city of New York;

5703-A, by Senator Dollinger,

an act to amend the Railroad Law;

6046-A, by Senator Skelos, an act to amend the Navigation Law and the State Finance Law;

6155-A, by Senator Goodman and others, an act to amend the Local Finance Law, in relation to the sale of bonds;

6256-A, by Senator Goodman, an act to amend Chapter 115 of the Laws of 1995;

6491-A, by Senator Johnson, an act to amend the Lien Law;

6632-a, by Senator Marchi, an act authorizing the city of New York to reconvey;

6760, by Senator Meier, an act to amend the Family Court Act;

6769-A, by Senator Leibell, an act authorizing the town of Phillipstown;

6774-A, by Senator Alesi, an act to amend the Tax Law, in relation to the basis;

6829-A, by Senator Saland, an act authorizing the town of Claverack;

7361, by Senator Saland, an act to amend the Social Services Law;

7572-A, by Senator Velella, an an act to amend the Insurance Law;

7595-B, by Senator Alesi, an act to amend the Local Finance Law;

7596-A, by Senator Alesi, an act to authorize the city of Rochester;

7732, by Senator Balboni, an act in relation to adjusting;

7733, by Senator Libous, an act to amend Chapter 649 of the Laws of 1996;

7740, by Senator Padavan, an act to amend the Education Law;

7742, by Senator Holland, an act to authorize the sale of real property;

7762, by Senator Skelos, an act authorizing the assessor of the county of Nassau;

7764, by Senator Padavan, an act to amend the Real Property Tax Law;

7766, by Senator Padavan, an act to amend the Education Law;

7770, by Senator Libous and others, an act to amend Chapter 723 of the Laws of 1993;

7776, by Senator Goodman, an

act to amend the General Business Law;

7783, by the Committee on Rules, an act to amend the Civil Service Law;

7795, by the Committee on Rules, an act to amend the Insurance Law;

7811, by Senator Velella, an act to amend the Vehicle and Traffic Law;

7413, by Senator Stachowski, an act to amend the Penal Law.

All bills directly for third reading.

ACTING PRESIDENT MEIER: Senator Kuhl. Senator Kuhl.

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

ACTING PRESIDENT MEIER: All those in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The report of the Rules Committee is accepted.

SENATOR KUHL: Now, Mr.

President, may we go to the order of motions and resolutions. I believe you've got some substitutions at the desk.

ACTING PRESIDENT MEIER: Motions and resolutions. The Secretary will read the substitutions.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. May we now proceed.

ACTING PRESIDENT MEIER: Secretary will read.

THE SECRETARY: In relation to Calendar Number 1474, Senator Present moves to discharge from the Committee on Finance Assembly Bill 2156-A, and substitute it for the identical Senate Bill 524-A.

ACTING PRESIDENT MEIER: Substitution ordered. Secretary will read.

THE SECRETARY: Calendar Number 1474, by member of the Assembly Parment, Assembly Print 2156-A, an act to amend the Tax Law, in relation to production of oil and gas.

ACTING PRESIDENT MEIER: Read

the last section.

THE SECRETARY: Section 4. This act shall take effect on the first day of sales tax quarterly period.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR LEICHTER: Is this 1474?

ACTING PRESIDENT MEIER: Yes.

(The Secretary called the roll.)

THE SECRETARY: Ayes 60, nays one, Senator Leichter recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1476, Senator Kuhl moves to discharge from the Committee on Rules Assembly Bill 3029 and substitute it for the identical Senate Bill 1774.

ACTING PRESIDENT MEIER: Substitution ordered. Secretary will read.

THE SECRETARY: Calendar Number 1476, by the Assembly Committee on Rules, Assembly Print 3029, an act to amend the Agriculture and Markets Law, in relation to use of lands in agriculture.

ACTING PRESIDENT MEIER: Read the last section.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1479, by Senator Skelos, Senate Print 4416, an act to amend the Civil Practice Law and Rules.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1480, by Senator Nozzolio, Senate Print 5202-A, an act to amend the Corrections Law, in relation to a compensation cap.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1481, by Senator Markowitz, Senate Print 5439-A, an act authorizing the city of New York to reconvey.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll. O.K. There is a home rule message at the desk. Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1482, by Senator Dollinger, Senate Print 5703-A, an act to amend the Railroad Law.

ACTING PRESIDENT MEIER: Last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1484, Senator Goodman moves to

discharge from the Committee on Rules Assembly Bill 9428-A, and substitute it for the identical Senate Bill 6155-A.

ACTING PRESIDENT MEIER: Substitution ordered. Secretary will read.

THE SECRETARY: Calendar Number 1484, by member of the Assembly Farrell, Assembly Print 9428-A, an act to amend the Local Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1487, by Senator Marchi, Senate Print 6632-A, an act authorizing the city of New York to reconvey.

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

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: In relation to Calendar Number 1484 -- correction, Calendar Number 1488, by Senator Meier, Senate Print 6760, an act to amend the Family Court Act.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1489, by Senator Leibell, Senate Print 6769-A, an act authorizing the town of Phillipstown.

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

the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1490, by Senator Alesi, Senate Print 6774-A, an act to amend the Tax Law, in relation to the basis on which compensating use taxes are owed.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1491, by Senator Saland, Senate Print 6829-A, an act authorizing the town of Claverack.

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

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1492, by Senator Saland, Senate Print 7361, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 22. This act shall take effect on March 1st, 1999.

ACTING PRESIDENT MEIER: Call the roll.

SENATOR SALAND: Lay the bill aside for the day.

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

THE SECRETARY: Calendar Number 1493, by Senator Velella, Senate Print 7572-A, an act to amend the Insurance Law, in relation to continuing.

SENATOR KUHL: Mr. President, is there a message at the desk?

ACTING PRESIDENT MEIER: There is a message.

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Secretary will read.

THE SECRETARY: Section 7.

This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1494, by Senator Alesi, Senate Print 7595-B, an act to amend the Local Finance Law, in relation to financing remediation.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1496, by Senator Balboni, Senate print 7732, an act in relation to adjusting certain state aid payments.

SENATOR KUHL: Mr. President, is there a message of necessity at the desk?

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

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All

those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1498, by Senator Padavan, Senate Print 7740, an act to amend the Education Law, in relation to the composition of community boards.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay aside, please.

ACTING PRESIDENT MEIER: Lay

the bill aside.

THE SECRETARY: Calendar Number 1499, by Senator Holland, Senate Print 7742, an act to authorize the sale of real property.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1503, by Senator Libous, Senate Print 7770, an act to amend Chapter 723 of the Laws of 1993.

SENATOR KUHL: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message of necessity at the desk.

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.").

Opposed nay.

(There was no response.)

The message is accepted. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: I'm sorry. Senator Libous, to explain his vote.

SENATOR LIBOUS: Mr. President, I just want to make note to the members that this legislation extends the Community Reinvestment Act which expires on March 31, 1999. It will extend it to September 30, 2001.

ACTING PRESIDENT MEIER: Secretary will call the roll.

(The Secretary called the

roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1507, by Senator Velella, Senate Print 7811, an act to amend the Vehicle and Traffic Law and the Insurance Law.

SENATOR KUHL: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message of necessity.

SENATOR KUHL: Move we accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

Opposed nay.

(There was no response.)

The message is accepted. Read the last section.

THE SECRETARY: Section 7. This act shall take effect July 1st, 1998.

ACTING PRESIDENT MEIER: Call

the roll.

(The Secretary called the roll.

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1508, by Senator Stachowski, Senate Print 7413, an act to amend the Penal Law, in relation to assault.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: May we now read the controversial calendar.

ACTING PRESIDENT MEIER:

Secretary will read the controversial calendar.

THE SECRETARY: Calendar Number 1484, substituted earlier today, by member of the Assembly Farrell, Assembly Print 9428-A, an act to amend the Local Finance Law.

SENATOR KUHL: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1498, by Senator Padavan, Senate Print 7740, an act to amend the Education Law, in relation to composition of community boards.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Padavan, an explanation has been requested of Calendar 1498 by Senator Paterson.

SENATOR PADAVAN: Mr. President, late last year or late '96 we passed a governance bill that significantly altered the structure of our community school boards and the governance of the board of education and the school system in the city of

New York.

One component of that bill, that law which became law, established a task force to report back to us on recommendations and how it changed in a positive way the method of electing community school boards.

This bill reflects those recommendations. First, and I think importantly to everyone, the ballots will now be cast by machine rather than a paper ballot; fortunately that cascading system which none of us could understand is eliminated and individuals who voted for four of the nine candidates and the top nine will win, will serve.

Those are the essential ingredients in this bill. The election remains in the same calendar time frame. There are provisions for education of voters and registration of parent voters, and dissemination of information about candidates as well as those who serve on the community school boards as far as their record and attendance and other pertinent information.

ACTING PRESIDENT MEIER:

Senator Paterson.

SENATOR PATERSON: Mr. President, I just have one quick question for Senator Padavan.

ACTING PRESIDENT MEIER: Senator Padavan, do you yield to a question?

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: Senator yields.

SENATOR PATERSON: Senator Padavan, do you think under the new system that minorities, and I don't mean when I say minorities necessarily African-Americans or Latinos, but minorities, in a sense wouldn't everybody be better represented under the old system because there was a sort of proportional representation?

SENATOR PADAVAN: No, I don't believe so. I think the system is clearer, more straightforward, serves everyone, minorities and others as well, and I might add there is a portion of this bill that, and I would read one sentence: "The city board and the board of elections of the city of New York should use foreign language and ethnic

newspapers and television stations to maximize minority participation in the electoral process."

SENATOR PATERSON: The explanations is satisfactory.

SENATOR KUHL: Read the last section.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 61.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Kuhl.

SENATOR KUHL: Mr. President, as I understand it, there are some substitutions at the desk. May we return to motions and resolutions for one -

ACTING PRESIDENT MEIER: We have one motion.

Senator Libous.

SENATOR LIBOUS: Thank you, Mr. President. On behalf of Senator Lack, I offer the following amendments to Calendar Number 1140, Senate Print Number 588-C, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Kuhl.

SENATOR KUHL: Would you recognize Senator Spano, please.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: Mr. President, can I please be recorded in the negative on 1448, please.

ACTING PRESIDENT MEIER: Without objection, Senator Spano will be recorded in the negative on Calendar Number 1448.

Senator Kuhl.

SENATOR KUHL: Recognize

Senator Leibell.

ACTING PRESIDENT MEIER: Senator Leibell.

SENATOR LEIBELL: Mr. President, may I also be recorded in the negative on 1448.

ACTING PRESIDENT MEIER: Without objection, Senator Leibell will be recorded in the negative on 1448.

Senator Kuhl.

SENATOR KUHL: Is there any other housekeeping at the desk?

ACTING PRESIDENT MEIER: There is Senator Larkin asking to be recognized.

SENATOR LARKIN: Mr. President, may I be recorded in the negative on Calendar 1448.

ACTING PRESIDENT MEIER: Without objection, Senator Larkin will be recorded in the negative on Calendar 1448.

SENATOR KUHL: Any other housekeeping?

ACTING PRESIDENT MEIER: There is no housekeeping at the desk.

SENATOR KUHL: There being no

further business, Mr. President, I move that the Senate stand adjourned -- would you recognize Senator Libous who apparently has a little housekeeping.

ACTING PRESIDENT MEIER: Senator Libous.

SENATOR LIBOUS: I'm a little slow, but can I also request unanimous consent to be recorded in the negative on 1448.

SENATOR KUHL: Senator Maziarz.

ACTING PRESIDENT MEIER: Senator Maziarz is even slower than Senator Libous.

Senator Maziarz.

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

I would also like unanimous consent to be recorded in the negative on Calendar Number 1448.

ACTING PRESIDENT MEIER: Without objection, Senator Maziarz will be recorded in the negative on 1448.

Senator Nozzolio.

SENATOR NOZZOLIO: I'd also

like unanimous consent to be recorded in the negative on Calendar Number 1448.

ACTING PRESIDENT MEIER: Without objection, Senator Nozzolio will be record recorded in the negative on 1448.

SENATOR KUHL: Senator Lack.

SENATOR LACK: Yes. I'd like to be recorded in the negative on Calendar Number 1448, please.

ACTING PRESIDENT MEIER: Without objection, Senator Lack will be recorded in the negative on Calendar 1448.

Senator -- can we have some order so we can conclude the business, please.

SENATOR KUHL: Now, Mr. President, there being no further business -

ACTING PRESIDENT MEIER: Senator Rath, did you wish to be recognized?

SENATOR RATH: Mr. Chairman, I'd like to be recorded in the negative on 1449.

ACTING PRESIDENT MEIER: Without objection, Senator Rath will be recorded in the negative on Calendar 1448. I

think it's safe now.

SENATOR KUHL: For the third and final time. Would you recognize Senator Stafford.

SENATOR STAFFORD: Same motion.

ACTING PRESIDENT MEIER: Senator Stafford, without objection, will be recorded in the negative on Calendar 1448.

SENATOR KUHL: There being no further business, Mr. President. Wait a minute -

There being no further business, Mr. President.

ACTING PRESIDENT MEIER: Senator Smith, did you want to be recognized? Senator Smith.

SENATOR SMITH: I'm already down.

SENATOR KUHL: There being no further business, Mr. President -- there being no further business -

ACTING PRESIDENT MEIER: Senator Saland.

SENATOR SALAND: I don't know if I'll get it, but may I have unanimous

consent to be recorded in the negative on 1448.

SENATOR GOLD: No.

ACTING PRESIDENT MEIER: Without objection, Senator Saland will be recorded in the negative on Calendar 1448.

Is there any other member who wishes to be recognized for any purpose?

Senator Kuhl.

SENATOR KUHL: There being no further business, Mr. President, I move that the Senate stand adjourned until tomorrow, June 18th, the last day of session this year for this scheduled session, at 10:00 a.m., sharp.

ACTING PRESIDENT MEIER: On motion, Senate stands adjourned until tomorrow, June 18th, 10:00 a.m., sharp.

(Whereupon at 10:39 p.m., the Senate adjourned)