NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 19, 1999

11:41 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: I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

(Whereupon, the assemblage recited the Pledge of Allegiance to the Flag.)

ACTING PRESIDENT MEIER: The invocation will be offered by Reverend Peter G. Young of Blessed Sacrament Church in Bolton Landing.

REVEREND YOUNG: Dear Lord, we ask You to bless these Senate members for their continued strength and health. We honor Senator Marchi for his longevity in this house and on his birthday, and Senator Paterson, for their good work.

We also ask Your blessing on all the staff that are so capably handling the details of this legislative body. We thank all of our constituents that present their concerns and insights on issues that will enrich New York State and the lives of our citizens.

We thank You, O God, for Your ongoing protection and guidance, but most of

all, God, we thank You and ask You to keep us mindful that we are in Your service while on this earth.

Amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, May 18th, the Senate met pursuant to adjournment. The Journal of Monday, May 17th, was read and approved. On motion, Senate adjourned.

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

Senator Skelos.

SENATOR SKELOS: Mr. President, if I could just interrupt for a moment, there will be an immediate meeting of the Rules Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

Senator Skelos.

SENATOR SKELOS: Continue then.

ACTING PRESIDENT MEIER: Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

Mr. President, on page number 56, I offer the following amendments to Calendar Number 1023, Senate Print 4243, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendment is received and the bill will retain its place on Third Reading Calendar.

Senator McGee.

SENATOR McGEE: Mr. President, I believe there is a privileged resolution at the desk by Senator Bruno. May we please have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The

Secretary will read.

THE SECRETARY: By Senator Bruno, Legislative Resolution Number 1472, honoring the past and present members of the Jonesville Volunteer Fire Department for 80 years of fire protection to the citizens of Jonesville, New York, and its surrounding communities.

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

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator McGee.

SENATOR McGEE: Mr. President, may we please take up the privileged Resolution Number 1467, by Senator Meier. May we have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Meier,

Legislative Resolution Number 1467, commending Virginia Elizabeth K. Hickey for her 34 years of ceaseless dedicated service to the Women of Rotary, Utica, New York.

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

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator McGee.

SENATOR McGEE: Mr. President, may we please take up privileged resolution 1468 by Senator Meier. May we have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Meier, Legislative Resolution Number 1468, commending Ruth Walker for her 50 years of ceaseless dedicated service to the Women of Rotary, Utica, New York.

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

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator McGee.

SENATOR McGEE: Mr. President, may we please take up privileged Resolution 1469, by Senator Goodman. May we have the title read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Goodman, Legislative Resolution Number 1469, recognizing the dedication of a Memorial Sculpture in honor of Jacob K. Javitz.

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

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed

nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator McGee.

SENATOR McGEE: At this time may be please have the non-controversial reading of the calendar.

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

THE SECRETARY: Calendar Number 261, by Senator Bonacic, Senate Print 2324-C, an act to amend the Public Authorities Law, in relation to ceremonial designation of a certain bridge.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 347, by Senator Lack, Senate Print -

SENATOR McGEE: Lay the bill aside for the day.

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

THE SECRETARY: Calendar Number 420, by Senator Maltese, Senate Print 2613, an act to amend the Penal Law -

SENATOR DOLLINGER: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 515, by Senator Rath, Senate Print 4205, an act to amend the General Municipal Law, in relation to compensation.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 554, by Senator Volker, Senate Print 3106-A, an act to amend the Penal Law, the Criminal Procedure Law and the Family Court Act.

SENATOR DOLLINGER: Lay it aside laid.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 626, by Senator LaValle, Senate Print 2854, an act to establish the Eastport volunteer exempt firefighter's benevolent association.

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 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 635, by Senator Marcellino, Senate Print 1323, and act to amend the Vehicle and Traffic Law in relation to the enforcement of the offense of operating a motor vehicle.

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, nays 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 682, by Senator Stafford, Senate Print 3022, an act to amend Chapter 672 of the laws of 1993, amending the Public Authorities Law.

SENATOR PATERSON: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 693, by Senator Volker, Senator Print 4616-A, an act to amend the Alcoholic Beverage Control Law, in relation to alcohol training awareness programs.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This bill shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 730, by Senator Rath, Senate Print 4668, and act to amend the County Law and the Education Law, in relation to interagency human services initiatives.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar number 732, by Senator Saland, Senate Print 1012, an act to amend the Criminal Procedure Law and the Executive Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 792, by Senator Wright, Senate Print 4258-A, an act in relation to adjusting certain state aid payments.

ACTING PRESIDENT MEIER: There is

a local fiscal impact note 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 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 862, by Senator Alesi, Senate Print 4690, an act to amend the Executive Law, in relation to establishing a program.

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 48, nays 2. Senators Duane and Marcellino recorded in the negative.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 924, by Senator Stafford, Senate Print, 3846, an act to amend the Executive Law, in relation to the emergency management assistance compact.

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 1021, by Senator Goodman, Senate Print 4153, an act to amend the Tax Law and the Administrative Code of the City of New York, in relation to seizure and forfeiture.

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 1022, by Senator DeFrancisco, Senate Print 4239, an act to amend Chapter 679 of the laws of 1992.

ACTING PRESIDENT MEIER: There is a home real 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 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1025, by Senator Goodman, Senate Print 4282, an act -

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1026, by Senator Goodman, Senate Print 4434, an act to amend the Alcoholic Beverage Control Law, in relation to wineries and farm wineries.

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 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1076, by Senator Libous, Senate Print 4658, an act to amend the Mental Hygiene Law, in relation to the appointment of directors of community services.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee, that completes the reading of the non controversial calendar.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I would request unanimous consent to be recorded in the negative on calendar 515.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be recorded in the negative on calendar 515.

Senator McGee.

SENATOR McGEE: Mr. President, may we please return to reports of standing committees. I believe there is a report of the Rules Committee at the desk.

ACTING PRESIDENT MEIER: Before we do that, Senator McGee, I'm sorry I didn't notice Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, may I have unanimous consent to be recorded in the negative on calendar 1025.

ACTING PRESIDENT MEIER: Calendar 1025 was laid aside, Senator.

Senator Fuschillo.

SENATOR FUSCHILLO: No.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: Mr. President, may we please return to reports of standing committees. I believe there is a report of the Rules Committee at the desk.

ACTING PRESIDENT MEIER: We will return to the order of reports of standing committees. The Secretary will read.

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

Senate Print 5605, by Senator Balboni, an act to amend the Penal Law.

Senate Print 5606, by Senator Rath, an act to amend the Penal Law; and.

Senate Print 5610, by Senator Nozzolio, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Senator

McGee.

SENATOR McGEE: Mr. President, I move to accept the report of the Rules Committee.

ACTING PRESIDENT MEIER: The question is on the motion to accept the report of the Rules Committee. All those in favor, signify by saying aye.

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed nay.

(No response.)

ACTING PRESIDENT MEIER: The report is accepted.

Senator McGee.

SENATOR McGEE: Mr. President, may we please take up calendar 1081, S-5605.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1081, by Senator Balboni, Senate Print 5605, an act to amend the Penal Law, in relation to enacting the anti-weapons of mass destruction act.

ACTING PRESIDENT MEIER: Read the

last section.

Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Mr. President, I just note, we just received the bill which has Senator Nozzolio's name on it but I don't believe the bill from Senator Balboni is at our desks yet, if we could just wait a minute until it actually gets passed around.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Instead of waiting, why don't we just ask Senator Balboni for an explanation rather than reading it in print we can hear his eloquence.

ACTING PRESIDENT MEIER: Senator Balboni, an explanation has been requested of your bill by Senator Paterson.

SENATOR BALBONI: Thank you, Mr. President.

This bill creates the anti-weapons of mass destruction act for the State of New York. It is a dramatic title and the question that obviously arises is why do this bill now.

In 1993 we began to have the first

incidents of terrorism not only in this nation but in our state. The World Trade Center bombing, though not an instrument of bio or chemical terrorism or a nuclear deice, it none the less showed the vulnerability of our major public facilities to these types of terrorist attacks. And the nature of terrorism, Mr. President, is changing. The old terrorism used to focus on what was referents to as lots of headlines but not lots of bodies. That has now changed to an utterly ruthless terrorism where it seems that the goal is to kill as many people as soon as possible and sometimes not even take credit for the ultimate goal being to destabilize the nation against which the attack has been taken place.

Look to March of 1995 and the Tokyo subway systems where the Shinri Kyo sect unleashed nerve gas into the subway killing 12 people and injuring 5100 people. And it was a botched attempt, Mr. President, which was designed to kill millions more.

And of course the Oklahoma City bombing. These acts are not the stuff of fiction writers. These are acts that have

occurred and unfortunately herald for us a new period of our history.

Recently I met with members of the Majority Leader's staff, Senator Bruno's staff and my staff, with a gentleman by the name of Gerry Howard. Gerry Howard is the director of the Mayor's Office of the City of New York Emergency Management and he is a consultant to the Marine Corps for their chemical biological incident response force. Mr. Howard was talking about the vulnerability of the watershed for the state and when he described the availability of biological agents and chemical agents and their destructive capacity, it was a chilling meeting indeed. As a result of that meeting my staff and I took a look at the Penal Law and were surprised to find that there were no statutes in place to deal with this threat. This bill creates a new Section 150 of the Penal Law, Section 05 creates definitions of what is considered to be a weapon of mass destruction. It sets out the list that copies the federal registry as to those agents which comprise the chemical agents and biological agents and also

includes nuclear agents. And then sets up the first crime under Section 10 of the bill, which creates the crime of possession of either the material to make or the components to make or the methods to disburse a weapon of mass destruction, or and with the intent to use same. The second section creates the law of possession and use of a weapon of mass destruction in the second degree, which is a B felony. And specifically directs that an individual -

ACTING PRESIDENT MEIER: Excuse me a second, Senator Balboni, could we have some order in the house, please?

Thank you, Senator, you may proceed.

SENATOR BALBONI: Thank you, Mr. President.

An individual who uses a weapon of mass destruction with the intent to injure but doesn't necessarily injure anyone is guilty of a B felony, and finally, the possession and use of a weapon of mass destruction in the first degree, which would create -- is an A-1 felony and this would be the use -- the

possession and use of a weapon of mass destruction with resulting injury or death.

Mr. President, the risk of dealing with these issues right now is that you don't want to set off alarms. You don't want to have a situation where people over dramatize the situation. There is nothing out there now which tells us that we are in threat of this type of an attack. However, the Clinton White House has a continuing emergency presidential edict that says that we must consider all types of chemical and biological attacks they consider a serious threat. And frankly, the words of Confucius and Shakespeare should be listened to, "If a man takes no thought about what is distant he will find sorrow near at hand." Or, "By the prickling of my thumb, something wicked this way comes."

Hopefully enacting this statute will provide us with the basis to deal with these terrorist acts before they occur.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Would the

noted student yield for a question?

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, as you are probably aware, and this legislation comes at a very opportune time for us, last Thursday I believe, there was a 911 call to the New York City police that there were what would probably fit in this legislation as weapons of mass destruction, chemicals that were being kept in a brownstone in Brooklyn. And the entire block had to be evacuated for about eight to ten hours because of this situation. And yet in the end there was a possession of a really, a rather small amounts of the chemicals, but in spite of the fact that the possession, the actual amount was not very great, the intend was clear just by the nature of the possession and so my question to you is how have you in this legislation dealt with the issue of quantity as opposed to the

fact that just any quantity at all, even a scintilla, represents an intent.

SENATOR BALBONI: Actually the issue itself is even more complex than that. Many of the chemicals that are used to manufacture nerve agents are the same types of chemicals that are used to produce plastics and foodstuffs.

There is obviously a industrial use that is lawful and permitted and therefore you can not ban these elements being manufactured and put into the stream of commerce. But that is why the statute focuses on the intent. And the nature of both, particularly the biological agents, you don't focus on quantity but rather you focus on intent and you give the prosecutors the ability to discern from the entire fact pattern as to whether or not an individual was attempting to assemble and utilize a weapon of mass destruction.

When you consider botulism, botulinus, several teaspoons in a huge body of water, huge body of water, like the watershed, would be enough to poison many hundreds and hundreds of thousands individuals. So

quantity in and of itself is not the determinant factor.

The fact is whether or not based upon the threat assessment from the Federal Bureau of Investigation and the military whether or not these items, in the quantities possessed by the individual and whether or not th individual had the intent in fact creates the actually mens rea to produce the conviction.

I hope that answers your question.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Will the Senator yield to a couple of questions?

ACTING PRESIDENT MEIER: Senator Balboni, do you yield?

SENATOR BALBONI: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Senator, I just want to ask you a couple questions about some of the incidents you refer to which are part of our history here. The World Trade Center bombing, how would this bill effect the

World Trade Center bombing?

SENATOR BALBONI: I think if you listened to my opening comments, though it was not a weapon of mass destruction necessarily prescribed in this, because as you know, under the Penal Law explosives are already covered, and we -- this law, what it does, is it doesn't go back over old ground. The Penal Law as it is currently constituted effects explosives and prohibits their use and therefore the World Trade Center bombing would not necessarily be impacted under this statute.

SENATOR DOLLINGER: Okay.

SENATOR BALBONI: But nonetheless, the reason why I mentioned it is because it highlights the vulnerability of a major facility in one of the worlds most populace cities.

SENATOR DOLLINGER: Again, through you, Mr. President, if Senator Balboni will continue to yield.

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: But this bill doesn't really deal with vulnerability. This does not build in or make our buildings or our schools or our college campuses or this building here, it doesn't make it any less vulnerable. It punishes and creates a standard punishing people who are involved in these deadly agents, right? It doesn't effect vulnerability. It doesn't make us any safer?

SENATOR BALBONI: Well no. Actually what it does is it recognizes the fact that here is a new -- there are new weapons of terror that we have not contemplated before hand. The World Trade Center bombing involved the use of a van packed with explosives.

SENATOR DOLLINGER: There were actually -- again, through you, Mr. President, they were actually fertilizer explosives, were they not?

SENATOR BALBONI: Yes. And the same with the Oklahoma City bombing. But nonetheless, that is a bulky substance that

can not be carried by an individual to have the kind of force and effect.

In terms of actual killing potency ricin, VX gas, the Marburg virus, they have 20 to 30,000 times greater killing capacity. And when you consider the amount of substance that you actually have to bring in, the ability to detect and prevent these types of viruses and agents from getting into our country and out of state is much more difficult than with explosives. So what this bill does, it recognizes that and raises to the highest penalty we can have in recognition of that fact.

SENATOR DOLLINGER: Again, through you, Mr. President, if Senator Balboni will continue to yield.

ACTING PRESIDENT MEIER: Senator Balboni, do you yield.

SENATOR BALBONI: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Our watersheds and our access to public building are vulnerable, correct?

SENATOR BALBONI: Actually, you take a look, there is the Kennedy Report, the River Keeper Report, which talked about vulnerability of the watershed. When I spoke with Mr. Howard we spoke specifically of the types of agents that could be used. But if you take a look over history, the vulnerability of the New York City watershed has been spoken about or over 40 years. And in fact the true vulnerability comes not so much from the introduction of a chemical or biological agent into the water, but rather, the use of explosions at critical junctures of the water delivery system, which would be far more devastating in terms of the ability of individuals to survive in the City of New York.

Now, I don't want to get too hysterical on this stuff, and like I said, this is the type of thing that the military, the Federal Bureau of Investigation, the City of New York have all been working incredibly hard and there have been literally billions of dollars now allocated to this fight to make sure that our watershed remains safe and pure.

SENATOR DOLLINGER: Again, through you, Mr. President, if Senator Balboni will continue to yield?

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

SENATOR BALBONI: I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: My question is this: Whatever the vulnerability we have in New York for water supplies, I assume that that vulnerability exists throughout this world. Everybody's water supply is potentially threatened by these agents, and my question is, has anyone on this planet ever been subjected to a terrorist act involving the introduction of any of these chemical agents into their water supply, anybody, ever?

SENATOR BALBONI: In 1986 the New York City Police Department responded to a 911 call where they found a package of plutonium in the watershed. It was in a package that had not been -- that was lead contained and there had been no release of the radioactive agents. However, that surely, if done

properly, could have been the harbinger of a great amount of contamination.

SENATOR DOLLINGER: Okay, but again, let me ask the question as a good trial lawyer would.

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

SENATOR BALBONI: Yes.

SENATOR DOLLINGER: Excuse me, Mr. President.

Has anybody ever been hurt by the introduction -- anybody ever been hurt anyplace in this planet by the introduction of these materials into the water supply of any of country on this plant that you are aware of, that actually hurt somebody?

SENATOR BALBONI: No, that I am aware of, no.

SENATOR DOLLINGER: If we could, lets just turn to a couple quick definitions so I make sure I understand this.

Let me ask one in particular. Does this bill contain a military use exception? Because I am sure you are aware that we have military bases in this country which may have

some of these chemical weapons, it is not disclosed by the Department of Defense, but may have some of the chemical agents that are in here. Is there a military use exception in this bill so that we don't make members of the military into criminals under this statute?

SENATOR BALBONI: The over all component of the statute talks about lawful purpose, lawful use.

SENATOR DOLLINGER: Where's that, if I could?

SENATOR BALBONI: If you look at weapons of mass destruction, the definition itself.

SENATOR DOLLINGER: Yup.

SENATOR BALBONI: Okay. I'm sorry go to line 31 of page 3, "Knowingly without lawful authority." That would cover a military exception.

SENATOR DOLLINGER: But there is no specific military exception here, is there?

SENATOR BALBONI: You don't need it.

SENATOR DOLLINGER: Okay. I would suggest that we might take a look at

that if this bill goes through another iteration so we don't make our military people into offenders.

SENATOR BALBONI: Senator Dollinger, Mr. President, may I ask Senator Dollinger a question?

ACTING PRESIDENT MEIER: You have the floor, Senator.

SENATOR BALBONI: Do you know of any prosecution on this planet or in this state or in this nation where a military individual was prosecuted for the use of a chemical in the production of military grade weapons as a result of a penal statute?

SENATOR DOLLINGER: Mr. President, I would be glad to respond. I regard that just as likely, given the history, as the fact that somebody would introduce these agents into the water supply system. Never happened before. Never has anybody been hurt by it.

I guess it is just as likely as the fact that somebody might do what your trying to ban.

SENATOR BALBONI: Mr. President,

would Senator Dollinger yield to a question?

SENATOR DOLLINGER: Mr. President, I thought I -

ACTING PRESIDENT MEIER: Gentlemen, just for the purposes of - gentlemen, we go through the chair here. Gentlemen for the purpose of a clarification, Senator Balboni is explaining his bill. He has the floor so Senator Balboni is yielding to Senator Dollinger for questions. So, Senator Balboni.

SENATOR DOLLINGER: I believe that you would agree with me that wouldn't it be nice if this Legislature could act prophylactically, act ahead of time. Act before there is an incident. And it is not so much flights of fancy. Talk to the biochemical experts in the military and the City of New York. They tell us that this is reality. That the potential -- and here's what's happening. The technology is getting easier. Do you know why? Because of the internet. It is not just bomb making plans that you find on the internet. It is also information relative to these types of agents

and their utilization.

Remember, the Tokyo subway killings were a botched attempt but yet killed 12 people and injured 5100. They were designed to kill millions. In addition to which, in 1997 a man was stopped in Oklahoma. He had 20,000 rounds of ammunition, four guns and enough ricin, which is made from castor beans, to kill millions. It is out there. The question becomes, do we wait for specific incidents or do we try to put this on the books now.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Balboni will continue to yield.

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Given the prevalence of organic fertilizer in the World Trade Center bombing and in the bombing in Oklahoma City, why wouldn't you include them as an organic part of the weapons of mass

destruction? They have the same organic - it is organic fertilizer, or chemical fertilizer. It is clearly the weapon of mass destruction when you want to blow something up. Why wouldn't you include it in here to make that an offense as well, that the unlawful possession of large amounts of chemical fertilizer is clearly, based on our experience in this country, a far greater threat to the people of this nation and of this state than the other threats that you talk about, which are threats but not at the same level. Why isn't fertilizer included?

SENATOR BALBONI: Because there is a component for explosives. You could argue the same way that the gasoline product made from corn, I forget what they call it now, but that that in itself is an organic product and that too should be put on a list because that can be used as a component to make explosives.

The point here is that these are not items, again, that are on the Federal Registry and talk about these types of agents because they will result in explosions. These

are agents that kill by themselves. Fertilizer does not kill by itself. It must be put into other components. The point here is that these agents are so deadly and require such minute amounts to be effective that they deserve attention by themselves as opposed to -- and the most severe treatment our penal law system can up with.

SENATOR DOLLINGER: Mr. President, excuse me, again through you, two other quick questions.

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: What I understand you are saying, Senator Balboni, is that the possession of one of these agents in a small quantity, can, in the hands of the wrong person, cause many deaths in a single - in a short period of time. Is that correct?

SENATOR BALBONI: It depends how it is disbursed. It depends how it is introduced. For example VX gas, VX gas -

SENATOR DOLLINGER: Made famous by the rock, right?

SENATOR DOLLINGER: By the rock, exactly. Will have immediate implications, causing death within 24 hours. However, anthrax will cause death over five days. So there is a great difference when you consider not only the effect but the potential.

And by the way, anthrax is much deadlier in terms of overall killing potential to gram weight than VX gas.

SENATOR DOLLINGER: Final question, Mr. President.

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: This bill will create a class of weapons of mass destruction that effects only the state of New York. Should this be done on the federal level? Isn't this more appropriate to be done on the federal level? Why should we do it on the state level?

SENATOR BALBONI: There is already a federal register that refers to this and lists these items. It is in multi-state jurisdictional issues. The federal government does have jurisdiction and in fact if you are not on the registry for the Center for Disease Control and you posses these items you are in violation of federal statute. So though it does not specifically detail these types of items like we do in this package, nonetheless, the federal laws amply delineate it.

SENATOR DOLLINGER: Thank you. Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Dollinger on the bill.

SENATOR DOLLINGER: Senator Balboni, you couldn't give, in your eloquence, a better explanation of why we ought to get rid of weapons of mass destruction. And do you know what the weapon of mass destruction is in America today? The one that is killing people in my city every single day? It is not a hypothetical death. It is not something that may happen some day, it is happening today. They are called assault weapons.

And let me explain to you, Senator Balboni, we have been told in this house that we shouldn't do it in New York State because they are already doing it at the federal level. You gave a perfect explanation as to why we ought to do it here.

I quote Senator Balboni. "The federal government is already doing it but we ought to do it here to protect the people in our state." Why can't we do that with assault weapons. He said, "These are the new weapons of terrorism." They may be the new weapons of terrorism. I agree they are the new weapons of terrorism, but they have not killed anyone yet.

The weapons of terrorism that are killing people, killing the people where I live, killing the people where you live, are called assault weapons.

We don't do that here, but we are going to do this. He then says, this is the new technology. The technology is easy. You can buy them off the internet. You can buy assault weapons off the internet. You can buy guns off the internet and we do nothing about

that, but we are going to take care of the dragon, the mythical dragon, the dragon that we should be afraid of. It is flying around out there. It is called chemical weapons. They could kill us. Nobody has been killed yet but there is this big dragon flying around and it is going to create this big threat to us. And the real threat is sitting here in weapons and guns.

Mr. Balboni, Senator Balboni, properly says this is something that is used by a single person, put in the wrong hands of a single person these chemical weapons could kills lots of people. So can assault weapons.

Go to Littleton, Colorado. Go out to California to the school yard where a guy with an AK-47 cleaned out nine people. This is the reason I am going to vote in favor of this bill. I am going to vote in favor of this bill even though no one has died yet because I want to protect the people of this state. I would just suggest to you that every one who wants to protect the people of this state ought to take Senator Balboni's remarks, apply them to the thing that is killing our people,

assault weapons, and lets get rid of those.

Here we are slaying the 21st century dragon and we won't even deal with the one at the end of the 20th.

ACTING PRESIDENT MEIER: Senator Goodman.

SENATOR GOODMAN: Two days after the World Trade Center bombing I, as chair of the Senate Investigations Committee, went to the World Trade Center with my staff and inspected the damage that was done by the bomb that had been brought into that building as was earlier explained in the passenger section of a van.

I can not describe to you except to have you visualize in this chamber the nature of the hole that that explosion created. Visualize, if you will, the Senate chamber and go up to twice its height and half of its depth and that will give you an idea of the hole that was created in the World Trade Center. Which, if it had not been constructed in a certain way with its support structures on the outside periphery of the call it the vertical shoe box, if you will, would have

been toppled.

If this bomb had gone off in any other building in the City of New York it would have broken it in half and it would have toppled the building.

My friends, the threat of terrorism which Senator Balboni has so appropriately sketched for us in this morning's debate is one that is very, very real indeed and should not be lightly dismissed. This has nothing to do with assault weapons, Senator. Your eloquence in that regard is nice but it doesn't seem to me is quite on point. You are trying to diminish the significance of Senator Balboni's statement to us, I think, by making it clear that in your view it is insignificant in terms of its attack upon individual people, but the fact of the matter is, my friends, that we have had specific examples of terrorism of a very frightening type. This happened to be a bomb, but it could be any number of other things and your Investigations Committee of this Senate issued a report creating a clarion cry of warning to say that there are many different types of terrorism

which could attack masses of people, hundreds of thousands of people in any one incident. So Senator Balboni is right on the bullseye of this target. His bill makes complete sense. It carries with it deterants which is highly significant. And I urge you, please, do not overlook the message he has left with us. It is an eloquent one and one that we would be well advised to take with the upmost seriousness.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Mr. President, I didn't intent to speak because -- but after Senator Dollinger's statement, I have to say to you, Senator Dollinger, you have never been less right on the floor of this Senate. I do not know if you just saw an article that was in the New York Post about so-called assault weapons. Two people in New York City were killed in 1997 with so-called assault weapons, and these, by the way, these assault weapons are really semiautomatic that they call them, actually they are small -- for the most part they are just small weapons that shoot one

time, two times, three times. Nonsensical talk about assault weapons, 93 people were killed with fists and clubs.

The reason this is -- I reason that we should realize something. Littleton, Colorado really had nothing to do with the weapons involved. There were 17 violations of the law involved there. All of the guns except one was totally illegal. The two sawed off shotguns, clearly illegal. The so-called TEK-9 was banned a long time ago by the Brady Bill. But more than that, the reports on how it was done and so forth was wrong. In fact, the gun apparently misfired all sorts of times. Most of the people, by the way, some of the people were killed by pipe bombs. The media has reported they were all killed by guns. From what the autopsies -- we are hearing from the internet is that some -- but the biggest point there was that they intended to kill a lot of people with pipe bombs, use propane and all that sort of stuff, which is exactly, by the way, what the problem is and what is involved in this kind of bill. That is, we are worried about the people who would

use the chemicals that are available, the munitions that are available as I call them, which are in the long haul an extremely serious problem.

The argument that we should somehow wait until something happens is really I think somewhat myopic. But more than that, I am a former police officer. Am I concerned about weapons on the streets? We always were. But let me tell you, in talking to law enforcement people, one after another after another all says the same thing, Oh, Gee, it would be nice if we didn't have so many of these things on the street and so forth, but we know that no law is going to really change that. In fact, all it is going to do is make people believe that somehow we have done something, which is a huge problem in this country. We just pass a bill and saying everything is okay.

The legislation that we have here today, and I know a little about it, these bills were one way or another in my committee, are bills to deal with a real problem for the future and right now.

The Littleton, Colorado reporting

created havoc in many of our school districts with reporting about bombs, about chemicals, about all sorts of things. That's why these bills are here because we have to send a message to young people in particular who have to face up to their responsibility. This nonsense of saying, all these poor kids. Poor thug kids that have to face up to their responsibility and if they have to go to jail and if they have to get the national penalties it is going to have to be done because we can not allow the kinds of things that are going on in this country to go -- and I am talking just about the threats if nothing else. But Senator Balboni's bill deals with a lot more then just the ordinary threats. Is there a possibly this could happen? You bet your life there is. Is his bill going to prevent it all? No. But at least we are out there saying that this sort of conduct is something that we absolutely have to deal with in the harshest fashion that we can in anticipation that it could potentially happen just to make sure as much as we can that we are out front on these types of issues but threats or with

the weapons of mass destruction or whatever it is, this is not the media world of lets do this. This is the real world. The real world out there. These things are happening. The real world. Not the world of, you know, talking about all this stuff that most people don't understand. You know, this is something that if we do not do this we could face even more serious problems in the future. And I am not -- I realize that there is politics involved in this. I understand all that. I have been here a long time. I usually don't get into this. But I would warn everyone here that these are very serious problems.

And I will predict to you that before this session is out, which may be a little while, that some of these bills will become law. The Assembly will do some. In fact, I have been talking to the Assembly. You may find that hard to belief. But I have been talking with some people in the Assembly and I believe at least several of these bills ultimately, I am not saying just the way they are, but will become law. And I just thought I wanted to say that.

Senator Balboni can certainly speak for himself better than I can. But I just thought it was important for me to say that.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, I certainly appreciate what Senator Volker just said because it is clear that we have to pass legislation on all of these issues.

I thought Senator Balboni's bill was excellent. We may not have had any incidents that have actually gone to fruition, but certainly there are some very sick members of our society who have, at times, engaged in the process that would bring us to such an end, and that is why I am proud to support his bill.

But I thought Senator Dollinger was very right in what he said because Littleton, Colorado, we are still getting all of the information in on what happened in Littleton. But in Arkansas, that was a situation where a 13 year old and a 12 year old used assault weapons. They got the weapons from their grandfather. There four children killed and a

teacher that was killed. And I don't even think that we need to be comparing the number of deaths from different processes as much as we have to recognize that we have got to in some way address personalities in this country that feel comfortable hearing about the use of weapons of -- that can cause great harm, or hearing about these very tragic incidents and in any way emulating them, or copying them or even in a kind of way just referring to them in a negative light.

What I think was most important about what Senator Dollinger was saying is that we have concrete evidence of the use of assault weapons in this state. There have been victims that were created by their improper use. And I think that it is most appropriate that we legislate against all of these weapons of mass destruction in all the different forms that they are in. And it is precisely the politics that is getting in the way of this because if we all just stepped outside this chamber and had a conversation about it we all know in our hearts. We know what many of these weapons do. Some of these

weapons that Senator Dollinger is talking about, there is no other purpose that they would have than to cause mass fatality.

So therefore I think that if we put aside all of the entities which we are forced to respond we would certainly pass all of this legislation today, for chemicals, for guns, for these types of apparatus that in the wrong hands can, in a very short period of time victimize a lot of people.

So I would say that Senator Dollinger can certainly speak for himself, but I wanted to rise in support of him because I think what he is saying is absolutely right. It has been a campaign he has waged for a number of years and it is one that I predict we will listen to one day and perhaps prevent something from happening by the action we take in this chamber.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect in 90 days day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Dollinger to explain his vote.

SENATOR DOLLINGER: I am going to vote in favor of it. I appreciate the comments of Senator Volker, and I agree this is a bill that we need to do. No question about it. I would point out to Senator Volker however, while two people were killed with assault weapons in New York City last year, that is two more than were killed with any of the agents listed in Senator Balboni's bill. And this is a question of what is really important. And I will tell you, I will repeat it again. The weapons, the terrorist weapons of the last part of the 20th century are more terrifying to the people in my district than the terrorist weapons of the 21st century.

We should be planning to take care of both. This will take care of one. Lets hope we have a chance to take care of the other parts. Two dying in New York City, if that is, in fact true, and I will take Senator Volker's word for it, is two too many to be killed by any terrorist weapon, whether it is

a weapon of mass destruction or an assault weapon.

I voted aye, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MEIER: The bill is passed.

Senator LaValle.

SENATOR LaVALLE: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 862, please.

ACTING PRESIDENT MEIER: Without objection, Senator LaValle will be recorded in the negative on Calendar Number 862.

Senator Leibell.

SENATOR LEIBELL: May I also have unanimous consent to be recorded in the negative on Calendar Number 862?

ACTING PRESIDENT MEIER: Without objection, Senator Leibell will be recorded in the negative on Calendar Number 862.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 862, please?

ACTING PRESIDENT MEIER: Without objection, Senator Fuschillo, will be recorded in the negative on Calendar Number 862.

Senator McGee.

SENATOR McGEE: May we please call up Calendar Number 1082, Senate 5606.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1082, by Senator Rath, Senate Print 5606, an act to amend the Penal Law, in relation to falsely reporting an incident.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in 90 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50, nays one. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee.

SENATOR McGEE: May we please take up Calendar Number 1083, Senate 5610.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1083, by Senator Nozzolio, Senate Print 5610, an act to amend the Penal Law, in relation to the crime of falsely reporting an incident.

SENATOR DOLLINGER: Explanation.

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

SENATOR NOZZOLIO: Mr. President, my colleagues, this measure before us attempts to stem the growing unfortunate tide of those who have been falsely reporting the incidents of bomb threats, primarily aimed at schools in our state. It is a growing phenomenon. It is one that gives us all a great disturbance and what we want to do is sent a clear signal that this type of behavior rises to the level of a felony.

The measure changes the current statute, giving a Class A misdemeanor status to this function, of this process, this behavior, that the measure before us raises that to a misdemeanor.

SENATOR DOLLINGER: Again, through you, Mr. President, one quick question for Senator Nozzolio.

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Senator, as I understand this, this would make a reporting of a false bomb threat to a school or to another organization, a public institution, a felony. Is that correct?

SENATOR NOZZOLIO: That's correct, Mr. President. Not just a school, but any public gathering place of 50 or more people.

SENATOR DOLLINGER: Thank you, Mr President. Thank you, Senator Nozzolio.

I appreciate this bill. I think this is a good move. I know that Senator Nozzolio is well aware of the fact that in our neck of the woods in Webster, Brighton, Brockport, Spencerport, Greece, in the wake of the Littleton tragedy we have had schools closed for days at a time because of the reporting of false bomb threats. I have carried a bill like this. I know there have been other attempts at it. My hope is that this bill will pass and it will be taken up by the Assembly.

The reporting of false bomb threats is no longer a prank. It is no longer something that a kid should do. It is a felony. People are going to get hurt. There are accidents from emergency vehicles. There are people slipping and falling, rushing out of these buildings. This is no longer a prank and I appreciate the fact that Senator Nozzolio has decided to characterize it for what it should be, which is a felony.

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 50, nays one. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee.

SENATOR MCGEE: Thank you, Mr. President. May we now have the controversial reading of the calendar.

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

THE SECRETARY: Calendar Number 420, by Senator Maltese, Senate Print 2613-A, an act to amend the Penal Law, in relation to placing a false bomb.

SENATOR DOLLINGER: Mr. President, I requested the explanation on that bill. In view of Senator Nozzolio's bill I will waive the explanation and ask the final section be read.

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 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 554, by Senator Volker, Senate Print 3106-A, an act to amend the Penal Law, the Criminal Procedure Law, and the Family Court Act, in relation to enhanced penalties.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT MEIER: Senator Volker, an explanation has been requested of Calendar 554.

SENATOR VOLKER: This is exactly the same bill that passed this house on May

the 5th, I believe it was. The problem was after it passed this house on May the 5th, we noticed that on page 5, line 42, a word was missed. "Corruption." So instead of saying, "of recruiting for enterprise corruption" it said, "recruiting for enterprise." And this, the only thing that this bill does is put in "corruption" and the reason we are doing it so you know is that very honestly I think eventually this bill, I hope is going to become law and we wanted to not let it get away from and we wanted to make sure that we had it correct when it is ready to go.

That's what this is all about.

SENATOR DOLLINGER: Thank you, Mr. President. Thank you, Senator, for the explanation.

I voted for -- I believe I voted for this bill last time, Senator Volker and I am going to vote for it again, but I would like an opportunity, Mr. President, to make it an even better bill.

I believe there is an amendment at the desk.

ACTING PRESIDENT MEIER: Senator

Dollinger, give us a moment to look at the amendment please.

SENATOR DOLLINGER: Thank you Mr. President.

SENATOR VOLKER: Mr. President, may I make a comment.

There is some question, certainly a question about the germaneness of this amendment, since it is a gun interdiction amendment and a gang related violence bill. But I would be happy to say to you, Senator, and I understand that this is a proposal by the way that was proposed I think last year and is in the Assembly, I believe it is in the Assembly budget resolution, or at least it has been proposed. The problem with this, if I might just say because we are -- they are discussing it, is that it is a budget issue. I'm not saying this is not necessarily a bad issue or good idea. It is a budget issue and there is already a gun interdiction program. I think you are aware that we passed legislation and we also put some money in for it.

I think probably this amendment is

not germane. But as I said, I would like to comment that it is not necessarily something that I think I would certainly reject out of hand at all, but I think it is something that we probably and I think should look into it as part of the conference committee process when that occurs.

So I guess my point here is that I think probably it is not germane to this issue but I don't say that I want to reject it out of hand because it is something we will certainly look at.

ACTING PRESIDENT MEIER: Senator Dollinger, do you want to address Senator Volker's point or do you want the chair to rule?

SENATOR DOLLINGER: Mr. President, I am always stymied I guess by the rules of the house. Do we debate about the germaneness in advance of the determination by the Chair, that it is or is not germane?

I will state my position on germaneness, if I can, Mr. President. My position is that this is germane. First of all, the underlying bill amends Section 265 of

the Penal Law. That bill deals with the penalties that arise for the use of weapons on school grounds. Our bill deals with exactly the same issue. We amended the exact same portion of the Penal Law, Section 265. We add different amendments to those sections. Since the two bills deal with the two parts it seems to me it is germane.

SENATOR SKELOS: I think the President is reviewing the legislation before he makes a ruling as to germaneness so lets all be patient and I am sure he will make a proper ruling.

Mr. President, if you could just continue to review the amendment.

ACTING PRESIDENT MEIER: It is a lengthy amendment. Senator Skelos, maybe I could suggest that perhaps we could stand at ease for just a couple of minutes.

SENATOR SKELOS: That's fine, Mr. President.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(The Senate stood at east from 12:45 p.m. to 12:50 p.m.)

ACTING PRESIDENT MEIER: The Senate will come to order, please.

Senator Dollinger, after careful consideration the Chair rules that the amendment is properly before the house and you now have an opportunity to speak. Do you waive the reading of the amendment?

SENATOR DOLLINGER: Yes, Mr. President.

ACTING PRESIDENT MEIER: You waive the reading and you now have an opportunity to explain the amendment.

SENATOR DOLLINGER: This bill will establish -- this is something that many people have focused on and that may be resolved eventually in a budget.

Here's what this bill does, this bill, I believe is past the Assembly. What it does is it would direct the Division of State Police to establish an illegal gun tracing data base to assist in the prosecution of illegal gun traffic.

Two, it would create an illegal gun tracing program using the Federal Bureau of Alcohol, Tobacco and Fire Arms, trading some

protocols. We would work together with the feds.

Three, it will provide grants to district attorneys, which is Senator Volker's point that it needs money at some point, which we hope this year's budget will put in, but those grants would allow district attorneys to aid in the prosection of illegal gun traffickers.

And four, it would require district attorneys to participate in the gun tracing program.

That is what the bill does, Mr. President. I would ask for votes in support of the amendment and I would yield to Senator Connor who I believe also wanted to comment on the bill.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: Thank you, Mr. President.

In my district on the Brooklyn Bridge nearly six years ago there was a tragic incident. A 16 year old Brooklyn yeshiva student was killed by a gunman who

indiscriminately opened fire on a school van carrying 15 Hasidic students across the Brooklyn Bridge.

Ari Halberstam would have celebrated his 22nd birthday this month. His mother, Devorah Halberstam, has been active in pushing this legislation. It is called Ari's Law. I spoke to Mrs. Halberstam yesterday. She asked that I do whatever I can to get the Senate to consider this bill. She was up here last week and the Assembly passed the bill. And the pain and anguish that this wonderful woman, this very observant orthodox Jewish woman has felt at the loss of her son in such a tragedy she has translated as so many others, and we have had other bills, as so many other crime victim families have determined that in order to protect others in the future from what happened to their loved ones they push a law. This is Ari's Law. It is past the Assembly. And I suggest most respectfully, Mr. President, that we pass this amendment and add this to Senator Volker's fine bill and on Monday pass both Senator Volker's bill and Ari's Law into law.

Thank you.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

On the amendment I think that one comment that was made earlier by Senator Volker, who I know takes these issues very seriously struck me very dramatically, and I don't have nearly as long and distinguished a law enforcement background as he did, I did spend two years as a law enforcement officer and I do not accept the fact that there is no law we can pass that will deal with the problem of guns.

I think he is quite correct in observing that most problems do not relate - most deaths by gun violence do not relate to assault weapons. The problem is guns in general. The problem is the proliferation of guns. The problem is the culture of guns. And there are a lot of laws we can pass to address this and I refuse to accept the fact that this house can not stand up and do at least as good a job as the Assembly that

passed a find package of gun laws last week and do something about the problem of guns and violence and kids and violence.

The amendment is an excellent amendment. A better system of tracking guns is essential in this state. In this state we do not have regulation of gun shows that were required and the regulation of felons seeking to purchase weapons that should be required. We do not even require a valid current ID to purchase rifles and shotguns in parts of this state.

We can take action. We must take action. And I think that this amendment is a very important step forward and I urge all to vote yes on the amendment and for us to pass this bill and not take a back seat in the effort to prevent further deaths by gun violence in this state.

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

SENATOR PATERSON: Party vote in the affirmative.

SENATOR SKELOS: Party vote in

the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 17, nays 34. Party vote.

ACTING PRESIDENT MEIER: The amendment fails.

Read the last section.

THE SECRETARY: Section 20. This act shall take effect on the first of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read in regular order.

THE SECRETARY: Calendar Number 682, by Senator Stafford, Senate Print 3022, an act to amend the Chapter 672 of the laws of 1993.

SENATOR DOLLINGER: Mr.

President, I requested the explanation on that bill. I will waive the explanation on that bill and ask to read the 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 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1025, by Senator Goodman, Senate Print 4282, an act to amend the Alcoholic Beverage Control Law, in relation to modifying.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Goodman, an explanation has been requested.

SENATOR GOODMAN: Lay the bill aside for the day.

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

Senator Skelos.

SENATOR SKELOS: Please recognize Senator Dollinger.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, may I have unanimous consent to be recorded in the negative on Calendar Number 862.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative on Calendar Number 862.

Senator Skelos.

SENATOR SKELOS: Mr. President, as I look at Senator Paterson he looks forlorn over there, thinking about tomorrow's birthday, and Senator Marchi is here smiling about tomorrow's birthday, but all I know is on behalf of Senator Bruno and all of the members of the Senate we wish them a happy birthday and many, many, many more happy and healthy years of service.

Is there any housekeeping at the desk, Mr. President?

ACTING PRESIDENT MEIER: We have some substitutions, Senator. I believe

Senator Paterson is -

SENATOR SKELOS: Please recognize Senator Paterson.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: In the words of Shakespeare, thank you.

SENATOR SKELOS: Please recognize Senator Goodman.

SENATOR GOODMAN: Mr. President, it is my happy privilege to announce to this chamber that next Tuesday at 6:00 p.m. there be a reception at the New York State Museum to welcome the Whitney Museum special exhibit of the Ashcan School, so-called, of painting in the State Museum exhibition space. May I say that I think this will be one of the most popular exhibits ever brought here. Is neither abstract nor is it pop art, it is figurative art, which is perhaps a little more readily comprehensible to those of us who are confused by other types of art and it is without doubt one of the most important exhibits we have ever had in Albany. It is here under the auspices of the Senate

Committee on Arts and Cultural Affairs and I urge every member to take the time and come and see. I think you will enjoy it enormously. Refreshments will be served and you will find it an absolute delight to the senses.

Thank you, very much.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 10, Senator LaValle, moves to discharge from the Committee on Rules, Assembly Bill Number 4995, and substitute it for the identical Third Reading Calendar 246.

On page 30, Senator McGee, moves to discharge from the Committee on Rules, Assembly Bill Number 7031, and substitute it for the identical Third Reading Calendar 692.

On page 41, Senator LaValle, moves to discharge from the Committee on Rules, Assembly Bill Number 4890, and substitute it for the identical Third Reading Calendar 854.

On page 50, Senator Volker, moves to discharge from the Committee on Rules, Assembly Bill Number 8072, and substitute it

for the identical Third Reading Calendar 958.

On page 53, Senator Hannon, moves to discharge from the Committee on Rules, Assembly Bill Number 8225, and substitute it for the identical Third Reading Calendar 989.

On page 53, Senator Volker, moves to discharge from the Committee on Rules, Assembly Bill Number 7664, and substitute it for the identical Third Reading Calendar 990.

And on page 53, Senator Volker, moves to discharge from the Committee on Rules, Assembly Bill Number 8235, and substitute it for the identical Third Reading Calendar 992.

ACTING PRESIDENT MEIER: Substitutions are ordered.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on page 17, I offer the following amendments to Calendar Number 458, Senate Print Number 2990-A and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT MEIER: The amendments are received and the bill will retain its place on the Third Reading

Calendar.

Senator Balboni.

SENATOR BALBONI: Mr. President, on page 21, I offer the following amendments to Calendar Number 533, Senate Print 4439, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Skelos.

SENATOR SKELOS: Is there any other housekeeping at the desk?

ACTING PRESIDENT MEIER: No, there is not.

SENATOR SKELOS: Just a reminder to the members of the Majority that there will be an immediate conference of the Majority in the Majority Conference Room. And there being no further business, I move we adjourn until May 24th at 3:00 p.m. intervening days being legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until

Monday, May 24th at 3:00 p.m. intervening days will be legislative days.

(Whereupon, at 1:01 p.m., the Senate adjourned.)