NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 24, 1999

3:15 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President.

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: The Senate will come to order. 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 today will be offered by the Reverend Mack Smith, Pastor of the Trinity Evangelical Lutheran Church in Wyandanch.

REVEREND SMITH: Lets bow our heads for a prayer.

Our Father and Our God, we give thanks to You this day for allowing each and every one of us to smell the freshness of a new day. As we come with a new day that comes with duties and functions and jobs to do.

As you know, Senators have as a job like many of us have to do. Many times the jobs are appreciated, sometimes they are not appreciated. But today we call upon Your divine intervention. We pray for those who are traveling up from Manhattan and hope they get here safe. We also pray for those

Senators who are present. We ask that you bless their discussion. And, Lord, we ask that whatever their discussion may be, it is not for individual goals and ambitions but it is for the welfare of those residents here of New York State, the greatest state in the nation.

Place Your care, place Your guidance, place Your leadership and place Your love down upon those represented here.

In Your precious name we pray. Amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Friday, May 21st. The Senate met pursuant to adjournment. The Journal of Thursday, May 20th was read and approved. On motion, Senate adjourned.

ACTING PRESIDENT MEIER: Without object, 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 McGee.

SENATOR McGEE: Mr. President, amendments are offered to the following Third Reading Calendar bills:

On behalf of Senator Leibell, page 11, Calendar Number 319, Senate Print 3012.

On behalf of Senator Bonacic, page 11, Calendar Number 331, Senate Print 3660.

On behalf of Senator Lack, page 12, Calendar Number 347, 3396.

On behalf of Senator Leibell, page 23, Calendar Number 597, Senate Print 3158-A.

On behalf of Senator Bonacic, page 29, Calendar Number 686, 3905-A.

On behalf of Senator Leibell, page 36, Calendar Number 815, Senate Print 5446.

On behalf of Senator Libous, page 42, Calendar Number 877, Senate Print 5039.

On behalf of Senator Wright, page 53, 1006, Senate Print 1231-A.

On behalf of Senator Bonacic, page

number 56, 1049, Senate Print 3908.

On behalf of Senator Skelos, page number 34, Calendar 783, Senate Print 5075.

On behalf of Senator Trunzo, page 44, Calendar Number 908, Senate Print 4225.

Mr. President, I now move that these bills retain their place on the Order of the Third Reading.

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

SENATOR McGEE: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Thank you, Senator McGee.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I have several bills to amend that were recalled from the Assembly.

On behalf of Senator Padavan, I wish to call up his bill, Senate Print 1502, recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Padavan, Senate Print 1502, an act to amend the Social Services Law.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MEIER: Amendments received.

SENATOR FARLEY: On behalf of Senator Alesi, I wish to call up his bill, 743, which was recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Alesi, Senate Print 743, an act to amend the Penal

Law.

SENATOR FARLEY: I wish to reconsider the vote by which this bill passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes 47.

SENATOR FARLEY: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

SENATOR FARLEY: On behalf a Senator Wright, I wish to call up his bill, 4161, which was recalled from the Assembly which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Wright, Senate Print 4161, an act in relation to authorizing.

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

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

(The Secretary called the roll.)

THE SECRETARY: Ayes 49.

SENATOR FARLEY: I offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

SENATOR FARLEY: I did that without glasses.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, there will be an immediate meeting of the Finance Committee in the Majority Conference Room.

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

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

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

THE SECRETARY: Calendar Number 455, by Senator McGee, Senate Print 3874-A, an

act to amend the Alcoholic Beverage Control Law.

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 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 610, by Senator Fuschillo, Senate Print 2030, an act to amend the Vehicle and Traffic Law.

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.)

SENATOR MONTGOMERY: Lay that

bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 615, by Senator McGee, Senate Print 4179, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

SENATOR MONTGOMERY: Lay that bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 751, by Senator Volker, Senate Print 3993, an act to amend the Penal Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 824, by Member of the Assembly Magee.

SENATOR SKELOS: Lay the bill aside for the day.

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

THE SECRETARY: Calendar Number 883, by Senator Maziarz, Senate Print 654, an act to amend the Vehicle and Traffic Law.

SENATOR SMITH: Lay that bill aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar 925, by Senator Fuschillo, Senate Print 4433, an act to amend the State Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

929, by Senator Saland, Senate Print 3986, an act to amend the Family Court Act.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 933, by Senator Saland, Senate Print 4857, an act to amend the Family Court Act and the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

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

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 963, by Senator Kuhl, Senate Print 1612, an act to amend the Public Service Law.

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.)

THE SECRETARY: Ayes 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 967, by Senator Wright, Senate Print 3901, an act to amend the Public Service Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 969, by Senator Kuhl, Senate Print 1774, an act to amend the Environmental Conservation Law.

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 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 970, by Senator McGee, Senate Print 2544-B, an act authorizing the conveyance of certain State lands.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 987, by Senator Volker, Senate Print 3421, an act to amend the Criminal Procedure Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. 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 1052, by Senator Skelos, Senate Print 4783, an act to amend the Not-for-Profit Corporation Law, in relation to granting a proxy.

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 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1069, by Senator LaValle, Senate Print 5376, an act to amend the Education Law.

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 51.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SKELOS: If we could take up the controversial calendar.

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

THE SECRETARY: Calendar Number 610, by Senator Fuschillo, Senate Print 2030, an act to amend the Vehicle and Traffic Law.

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.)

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

SENATOR PATERSON: I'm sorry, Mr. President, might we have a brief explanation of this bill?

ACTING PRESIDENT MEIER: Senator Fuschillo, an explanation has been requested of Calendar Number 610, by Senator Paterson.

SENATOR FUSCHILLO: This bill, Senator Paterson, will amend the VTL and extend the revocation period for those who fail to take a blood alcohol test. Currently first offense is six months, second offense is one year. And it would extend it from six months to nine months and one year to 18 months.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Sounds good enough for me.

SENATOR FUSCHILLO: Thank you, very much, Senator Paterson.

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 615, by Senator McGee, Senate Print 4179, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR SMITH: Explanation.

ACTING PRESIDENT MEIER: Senator McGee, an explanation has been requested of Calendar Number 615.

SENATOR McGEE: Thank you, Mr. President. This bill would require the revocation of a liquor license or permit for three or more violations of sales to those

under 21 years within any two year period.

ACTING PRESIDENT MEIER: Senator Smith.

SENATOR SMITH: I am a little confused. And may I have a clarification, because the explanation of this bill states it is for -- requires the revocation liquor license for repeated sales to persons under the age of -- I'm sorry I am reading the wrong one. It provides for permanent revocation of a driver's license for certain alcohol or drug related events.

SENATOR McGEE: I'm sorry, where are you reading that?

SENATOR SMITH: On our active list. 615 provides for permanent revocation of driver's license for certain alcohol or drug related offenses.

SENATOR McGEE: I am sincerely sorry, you should be confused. And I'm sorry.

Mr. President, I am sorry. I was reading the description of another bill. Please forgive me.

This bill would add to the Vehicle and Traffic Law the operation of a motor

vehicle accident during a permanent license revocation for DWI or a chemical test refusal offense shall constitute aggravated operation of a motor vehicle accident in the first degree, a Class E felony. It would require permanent driver's license revocation for persons convicted of refusal to submit to a chemical test or any DWI or DWAI or driving while impaired by drug violation and has, within the last five years been twice convicted of a DWI, DWAI, or driving while impaired by drugs or refusal to submit to a chemical test, or has within the last ten years been thrice convicted of DWI, DWAI, or driving while impaired by drug or refusal to submit to a chemical test.

SENATOR SMITH: Mr. President, would the sponsor yield for a question?

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

SENATOR McGEE: Absolutely.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SMITH: Has any provision been made for these people who may need to

have a vehicle or operate a vehicle to get back and forth to work?

SENATOR McGEE: Present law states right now that there is the opportunity to be able to have a conditional license. This bill does not make a provision for that, no.

SENATOR SMITH: Because, if I am reading correctly, this is a permanent revocation.

SENATOR McGEE: That's right.

SENATOR SMITH: So that would prevent anyone who was found guilty from operating a vehicle at any time in the future?

SENATOR McGEE: That's correct, Senator. And if I may, Mr. President, it goes on and gives the time frames. It gives you, if you have done this within the last five years been twice convicted of any one of these, within the last ten years been three times convicted of a DWI, DWAI. If you will forgive me, Senator, if they haven't learned their lesson by then, I am afraid that those are the types of people we do not want on the road.

SENATOR SMITH: Thank you, very

much.

SENATOR McGEE: Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51, nays one. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 751, by Senator Volker, Senate Print 3993, an act to amend the Penal Law.

SENATOR PATERSON: Explanation.

SENATOR SKELOS: Laid it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

The Secretary will continue to read.

THE SECRETARY: Calendar Number

883, by Senator Maziarz, Senate Print 654, an act to amend the Vehicle and Traffic Law.

SENATOR MAZIARZ: Lay that bill aside for the day.

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

THE SECRETARY: Calendar Number 929, by Senator Saland, Senate Print 3986 an act to amend the Family Court Act.

SENATOR PATERSON: Explanation.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 967, by Senator Wright, Senate Print 3901, an act to amend the Public Service Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 51, nays

one. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, can we stand at ease pending some of our members returning from the Finance Committee.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

(The Senate stood at ease from 3:31 to 3:41 p.m.)

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: If we could take up now on the controversial calendar, Calendar Number 751.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 751.

THE SECRETARY: Calendar Number 751, by Senator Volker, Senate Print 3993, an act to amend the Penal Law, in relation to gambling and certain gambling offenses.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8. 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 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 883, by Senator Maziarz, Senate Print 654, an act to amend the Vehicle and Traffic Law.

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 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 929, by Senator Saland, Senate Print 3986, 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 55.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SKELOS: Mr. President, if we could return to reports of standing committees, I believe there is a report of the Finance Committee at the desk. I ask that it be read.

ACTING PRESIDENT MEIER: Reports of standing committees. The Secretary will read.

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

As a Member of the State Board of

Parole, Joseph J. Gawloski, of Yonkers.

ACTING PRESIDENT MEIER: We will temporarily lay that nomination aside, and the Secretary will continue to read.

THE SECRETARY: As Directors of the State of New York Mortgage Agency; Jerome M. Becker of New York City, Joseph Strasburg of Staten Island.

SENATOR SKELOS: Move the nominations.

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

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed nay.

(No response.)

ACTING PRESIDENT MEIER: Jerome Becker is confirmed as a Director of the State of New York Mortgage Agency, and Joseph Strasburg is confirmed as a Director of the State of New York Mortgage Agency.

The Secretary will continue to read.

THE SECRETARY: As a Member of

the Allegany State Park Recreation and Historic Preservation Commission, William Fox of Cuba.

SENATOR SKELOS: Move the nomination.

ACTING PRESIDENT MEIER: The question is on the confirmation of William Fox as a Member of the Allegany State Park Recreation and Historic Preservation Commission. All those in favor, signify by saying aye.

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: William Fox is confirmed as a Member of the Allegany State Park Recreation and Historic Commission.

The Secretary will continue to read.

THE SECRETARY: As a Member of the Minority Health Counsel, Richard G. Young of White Plains.

SENATOR SKELOS: Move the nomination.

ACTING PRESIDENT MEIER: The question is on the confirmation of Richard G. Young as a Member of the Minority Health Counsel. All those in favor signify by saying aye.

(Response of "Aye.)

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: Richard G. Young is confirmed as a Member of the Minority Health Counsel.

The Secretary will read.

THE SECRETARY: As a Member of the State Board of Parole, Joseph J. Gawloski, of Yonkers.

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, we are very pleased to put forward this nomination of Joseph Gawloski as a Member of the New York State Parole Board.

As Senator Volker has iterated

today and in days past, he, in his long history of working with criminal justice issues in this state, I dare say it is the first time in his memory that, and that goes without saying with everybody's memory here, that an executive director of the New York State Parole Board was asked to serve in the capacity of parole commissioner.

Governor Pataki has done great things in his nominations for the New York State Parole Board. And with the selection of Brian Travis a number of years ago we have seen an outstanding performance of Governor Pataki's appointments to this very important body.

This appointment is, by far, the most experienced parole commissioner that we possibly could have with over 31 years of experience, holding a variety of positions within the Division of Parole from parole officer to senior parole officer to bureau chief and most recently as executive director.

Joe Gawloski has demonstrated a broad bush of knowledge of what parole is all about, what the dynamics are, what the

challenges are for our Parole Board and as such certainly is a very, very good solid appointment to serve on this board.

I compliment Governor Pataki in his wisdom in pursuing this, and I certainly with great pride as the Committee on Crime Victims, Crime and Corrections chairman unanimously considered this appointment in moving it to the floor. We certainly concur that this is an excellent appointment and I move the nomination.

ACTING PRESIDENT MEIER: Question on -- Senator Volker.

SENATOR VOLKER: Quickly, let me just say that on behalf of Joe that when parole commissioners are named, the Parole Board members are named, normally they have to have a transition period and have to have a time when they are briefed and so forth.

We won't have to have that problem with Joe. I mean, he is the guy that has briefed all those people over the years and helped to get them ready and prepped. So you have somebody that obviously walks right in and knows exactly what's been going on in the

Parole Department for only the last about 20 years.

So I compliment the Governor. It is an excellent choice and I wish Joe the best of luck.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

On the nomination, I agree with Senator Volker and Senator Nozzolio, this is an extremely well qualified if not perhaps the best qualified candidate that we have been asked to put on the Parole Board and I am going to vote for Mr. Gawloski to serve on the Parole Board.

I just want to reiterate for the record what I said in the Senate Finance Committee, and that is to urge Governor Pataki to look to broaden the diversity of the Parole Board. That my concern is that I believe there is only one person of color on the Parole Board currently. And I believe that there is a need for greater diversity.

I think that sometimes when someone

sits in a prison and asks for parole, a discretionary release that is capable of being granted by the Parole Board, I think there is -- there can be, can be a sense that if you consistently look at people who are not necessarily from your background or from your racial community or a part of people of color I think there is a possibility that it could be perceived as being unfair.

I believe that, and I have no evidence that the Parole Board has been unfair. I don't mean to suggest that. I would just suggest to those on the second floor that a broadening of the diversity to reflect the composition of the people of this State would be well advised.

I urge Governor Pataki to look for minority candidates for this very, very important position. I think it is critically important for the sense of justice in this state.

But I want to make absolutely clear, this is a very, very well qualified candidate and very worthy of a vote so I will be voting aye on this nomination and I look

forward to an opportunity in perhaps the not too distant future when we can address the other issue that I think is important on the Parole Board, a broadening of its diversity.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Thank you, Mr. President.

I would just rise to mention what has been said so well before me by previous speakers.

It certainly is most heartening to see a professional who has been in the field for 30 years to move now into this very, very responsible position. And I only compliment Governor Pataki for a fine nomination. And as Senator Nozzolio I am sure feels, did so well in front of his committee and did so well at the Finance Committee. And we certainly have a very, very fine appointment.

And as I so often say here, we have another example of a governor doing so well in the appointments.

Thank you.

ACTING PRESIDENT MEIER: The question is on the confirmation of Joseph A. Gawloski as a Member of the State Board of Parole. All those favor signify by saying aye.

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nomination is confirmed.

Mr. Gawloski is with us in the chamber today. Mr. Gawloski, on behalf of the Senate, we welcome you today, we congratulate you on your confirmation and wish you well with your important duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: Senator Stafford also offers up the following bills:

Senate Print 5683, by the Committee on Rules, an act to amend Chapter 15 of the Laws of 1999, to make an appropriation for the support of government.

5684, by the Committee on Rules, an act making appropriations for the support of government.

5685, by the Committee on Rules, an act to amend Chapter 83 of the Laws of 1995.

All bills directly for third reading.

ACTING PRESIDENT MEIER: Without objection, all bills directly to the Third Reading Calendar.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if you would please take up Calendar Number 1084, Senate 5683.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1084, by the Committee on Rules, Senate Print 5683, an act to amend Chapter 15 of the Laws of 1999, making appropriations for the support of government.

SENATOR SKELOS: Mr. President, is there a message of appropriation and necessity at the desk?

ACTING PRESIDENT MEIER: There is

a message of necessity and appropriation at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The question is on the motion to accept the message of necessity and appropriation. All those in favor signify by saying aye.

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

Senator Skelos.

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 55, nays one. Senator Dollinger recorded in the.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please take up Calendar Number 1085, Senate 5684.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1085, by the Committee on Rules, Senate Print 5684, an act making appropriation for the support of government.

SENATOR SKELOS: Mr. President, is there a message of appropriation and necessity at the desk?

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

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The question is on the motion to accept the message of necessity and appropriation. All those in favor signify by saying aye.

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted. Read the last section.

THE SECRETARY: Section 37. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes 56.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 1086, Senate 5685.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calender Number 1086, by the Committee on Rules, Senate Print 5685, an act to amend Chapter 83 of the Laws of 1995.

SENATOR SKELOS: Mr. President, is there a message of necessity at the desk?

ACTING PRESIDENT MEIER: There is a message of necessity at the desk.

SENATOR SKELOS: Move to accept.

ACTING PRESIDENT MEIER: The question is on the motion to accept the

message of necessity. All those in favor signify by saying aye.

(Response of Aye.)

ACTING PRESIDENT MEIER: Opposed nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted. Read the last section.

SENATOR DOLLINGER: Lay the bill aside. Could we do a question since this is the last one? I believe since this is the last item on the calendar, rather than lay it aside we could just do that right now.

Through you, will the chairman of the Finance Committee just yield to a question?

SENATOR STAFFORD: Yes, definitely.

SENATOR DOLLINGER: Through you, Mr. President, this bill extends the Family and Children's Services Block Grant. My question, through you, Mr. President, is, we did the block grant last year. Do we have any evidence or any indication that the block grant, the Children and Family Services Block

Grant has been a success?

And I raise that question because at least in my community there has been significant criticism of block granting the Family and Children Services. Has there been any study or any evidence from the Department of Family and Children's Services that suggest the block grant has worked?

SENATOR STAFFORD: I have also had contact on this. And I wanted to talk to my counsel to be as accurate as I could. Some of the recipients, the counties have asked for a study as far as how this money is being delivered to the localities. Many of us, of course, argue and this is philosophical, that there is more flexibility the way it is being done at the present time. There are some arguments that they think maybe the amount would be different if it was not done exactly the way it is right now and we are presently looking into this.

SENATOR DOLLINGER: Through you, Mr. President, I want to thank the chairman of the Finance Committee for this question from sort of left field with respect to the block

grant. As the chairman's, I think, comments point out, I for one have had numerous complaints from Children and Family Service agencies in the Rochester community about the success of the block grant program, that while it is designed to achieve some flexibility, by getting away from the sort of categorical formula we used in the past there seems to be a shifting around of funds that has taken agencies that have long histories under the categorical grant and put them at a disadvantage in competing for new contracts.

The reason I ask the question, Mr. President, is because I think that the study of the effect of the block grant could be critically important to decide whether we continue with the block grants or go back to the old method of doing it by category and formula.

With the assurance from the Senate Finance Committee Chair that we'll take a look at this, and I know that this may also be a part of the ongoing budget discussion, I just think it is an issue that we ought to look back at, especially considering the fact that

our Children and Family Service agencies throughout the State have raised some serious questions.

So I appreciate the indication from the Chair that we will be looking into it and I hope someday when we get to this budget we will take a hard and fast look at this entire question.

Thank you, Mr. President.

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, is there any housekeeping at the desk.

ACTING PRESIDENT MEIER: Just

give us a moment.

There is no housekeeping at the desk.

SENATOR SKELOS: Please recognize Senator Fuschillo.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, I would like unanimous consent to take a moment from our proceedings to talk about an award that was recently bestowed upon one of our former members.

ACTING PRESIDENT MEIER: Without objection, Senator Fuschillo is recognized.

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

Until his timely death last year, Senator Norman Levy was truly a leader in the area of traffic safety legislation and particularly legislation addressing the problem of alcohol and driving.

His tireless advocacy on these issues led to the enactment of such measures as our prompt suspension law and zero tolerance law for youthful offenders.

I do not believe that anyone in this chamber can dispute that Senator Levy was instrumental in reducing the number of highway deaths in this state which are attributable to DWI.

I have recently learned that the National Commission Against Drunk Driving has awarded Senator Levy their humanitarian award of the year. This award is truly recognition that Senator Levy's lifetime efforts have been and will continue to be a positive influence upon the quality of life in our State.

Obviously this comes after his death, but I felt it was important as many of you are close friends to him and his wife, Joy, and I wanted to share this with you.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: Mr. President, there being no further business, I move we adjourn until Tuesday, May 25th at 3:00 p.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, May 25th at 3:00 p.m.

(Whereupon, at 4:00 p.m., the Senate adjourned.)