NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 9, 1999

11:08 a.m.

REGULAR SESSION

SENATOR RAYMOND MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

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

(Whereupon, the assemblage respected a moment of silence.)

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Tuesday, June 8th, the Senate met pursuant to adjournment. The Journal of Monday, June 7, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

On behalf of Senator Goodman, on page 9 I offer the following amendments to Calendar 282, Senate Print 2453, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: Mr. President, on behalf of our distinguished Majority Leader, Senator Bruno, I move to commit Senate Print 3464, Calendar Number 374, that's on the order of third reading, to the Committee on Rules.

ACTING PRESIDENT MEIER: So

ordered.

SENATOR FARLEY: On behalf of Senator Maltese, Mr. President, on page 14 I offer the following amendments to Calendar Number 416, Senate Print 2188A, and I ask that that bill retain its place.

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

SENATOR FARLEY: On behalf of Senator Larkin, Mr. President, on page 9 I offer the following amendments to Calendar Number 257, Senate Print 2534, and I ask that that bill retain its place on the Third Reading Calendar.

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

SENATOR FARLEY: Mr. President, I wish to call up Senator Skelos's bill, Senate Print 3071, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The

Secretary will read.

THE SECRETARY: Calendar Number 553, by Senator Skelos, Senate Print 3071, an act to amend the Civil Practice Law and Rules.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

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

ACTING PRESIDENT MEIER: Amendments received.

SENATOR FARLEY: Mr. President, on behalf of Senator Alesi, I wish to call up his bill, Senate Print 96A, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 119, by Senator Alesi, Senate Print 96, an act to amend the General Business Law.

SENATOR FARLEY: Mr. President, I

now move 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, 38.

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

ACTING PRESIDENT MEIER: The amendments are received.

SENATOR BRUNO: Are there any substitutions at the desk, Mr. President?

ACTING PRESIDENT MEIER: Yes, there are, Senator Bruno.

SENATOR BRUNO: Would you please make the substitutions.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 4, Senator Johnson moves to discharge, from the Committee on Rules, Assembly Bill Number 3522A and substitute it for the identical Third Reading Calendar, 45.

On page 10, Senator Johnson moves to discharge, from the Committee on Rules,

Assembly Bill Number 8063A and substitute it for the identical Third Reading Calendar, 304.

On page 18, Senator Bruno moves to discharge, from the Committee on Rules, Assembly Bill Number 8237 and substitute it for the identical Third Reading Calendar, 529.

On page 21, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill Number 5864 and substitute it for the identical Third Reading Calendar, 604.

On page 30, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 2969A and substitute it for the identical Third Reading Calendar, 797.

On page 39, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 6052A and substitute it for the identical Third Reading Calendar, 943.

On page 41, Senator Volker moves to discharge, from the Committee on Rules, Assembly Bill Number 7135A and substitute it for the identical Third Reading Calendar, 972.

On page 41, Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill Number 8111 and

substitute it for the identical Third Reading Calendar, 973.

On page 50, Senator Kruger moves to discharge, from the Committee on Rules, Assembly Bill Number 6571 and substitute it for the identical Third Reading Calendar, 1218.

On page 50, Senator Alesi moves to discharge, from the Committee on Rules, Assembly Bill Number 3030, and substitute it for the identical Third Reading Calendar, 1219.

On page 50, Senator Goodman moves to discharge, from the Committee on Health, Assembly Bill Number 1402 and substitute it for the identical Third Reading Calendar, 1220.

On page 51 Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill Number 5607A and substitute it for the identical Third Reading Calendar, 1226.

On page 51, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 7643, and substitute it

for the identical Third Reading Calendar, 1227.

And on page 53, Senator Maziarz moves to discharge, from the Committee on Rules, Assembly Bill Number 7963 and substitute it for the identical Third Reading Calendar, 1244.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Farley.

SENATOR FARLEY: Thank you, Mr. President. On behalf of Senator Skelos, on page 13 I offer the following amendments to Calendar 376, Senate Print 902B, and I ask that that bill retain its place on the Third Reading Calendar.

THE SECRETARY: Amendments received, and the bill will retain its place on the Third Reading Calendar.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we call for an immediate meeting of the Finance Committee in Room 332.

ACTING PRESIDENT MEIER: Immed iate meeting of the Finance Committee in Room

332.

Senator Bruno.

SENATOR BRUNO: Mr. President, I believe that there is a privileged resolution at the desk by Senator Goodman. I would ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Goodman, Legislation Resolution Number 1852, mourning the death of Jerome Green, distinguished citizen and philanthropist.

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 Bruno.

SENATOR BRUNO: Mr. President, I believe that there is another privileged

resolution at the desk, by Senator Connor. I would ask that the title be read and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Connor, Legislation Resolution Number 1853, commemorating the 1999 Lower East Side Festival on Sunday, June 13, 1999, celebrating the immigrant experience and welcoming the new millennium.

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 Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up the noncontroversial reading of the calendar.

ACTING PRESIDENT MEIER: The

Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 245, by Senator LaValle, Senate Print 2063, an act to amend the Public Authorities Law, in relation to the definition of technology development organizations.

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, 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 501, by Senator Spano, Senate Print 4360, an act to amend the Workers' Compensation Law, in relation to the investment of the State Insurance Fund.

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, 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 658, by Senator Saland, Senate Print 3529, an act to amend -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 685, by Senator Marchi, Senate Print 3895, an act to amend the Public Authorities Law, in relation to retirement benefits.

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, 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 706, by Senator Spano, Senate Print 4603 -

SENATOR BRUNO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 747, by Senator Volker, Senate Print 3524A, an act to amend the Civil Practice Law and Rules, in relation to conducting.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 42.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 779, by Senator Kuhl, Senate Print 2953, an

act to amend the Tax Law -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 813, by Senator Leibell, Senate Print 5028, an act to amend the Civil Service Law -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 826, by Senator Hoffmann, Senate Print 5092, an act to amend the Agriculture and Markets Law, in relation to measuring protein content in milk.

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, 42.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 934, by Senator Skelos, Senate Print 4887, an act to amend the Domestic Relations Law, in relation to notification of adoptive parents.

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, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 942, by Member of the Assembly Gottfried, Assembly Print Number 5310, an act to amend the Public Health Law, in relation to adoptive information registries.

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, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 960, by Senator Hannon, Senate Print 5088, an act to amend the Public Health Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 990, by Member of the Assembly Lentol, Assembly Print Number 7664, an act to amend the Criminal Procedure Law, in relation to designation.

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, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 992, by the Assembly Committee on Rules, Assembly Print Number 8235, an act to amend the Criminal Procedure Law, in relation to interim probation supervision.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 90 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

995, by Senator Volker, Senate Print 3537, an act to amend the Criminal Procedure Law, in relation to verdict sheets.

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, 44. Nays, 1.

Ayes, 43. Nays, 2. Senators Montgomery and Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1213, by Senator Bruno, Senate Print 1A, an act to amend the Tax Law, in relation to allowing a reduction.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1214, by Senator Bruno, Senate Print 2A, an act to amend the Tax Law -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1215, by Senator Bruno, Senate Print 3A, an act in relation to enacting the Jobs 2000 for New York State Act.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1216, by Senator Bruno, Senate Print 5, an act to amend the State Finance Law, in relation to Debt Reduction Reserve Fund.

ACTING PRESIDENT MEIER: Senator

Paterson, why do you rise?

SENATOR PATERSON: Lay it aside, please.

THE SECRETARY: Lay the bill aside.

THE SECRETARY: Calendar Number 1217, by Senator Bruno, Senate Print 4, Concurrent Resolution of the Senate and Assembly Proposing Amendments to Article 7 of the Constitution.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1218, substituted earlier today by Member of the Assembly Weinstein, Assembly Print Number 6571, an act authorizing the City of New York to reconvey its interest in certain real property.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1219, substituted earlier today by Member of the Assembly Koon, Assembly Bill Number 3030, an act in relation to permitting the reopening of the optional 20-year retirement plan.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1220, by -- substituted earlier today by Member of the Assembly Gottfried, Assembly Print Number 1402, an act to amend the Public Health Law, in relation to the use of automated external defibrillators.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

THE SECRETARY: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1221, by Senator LaValle, Senate Print 1557, an act to amend the Vehicle and Traffic Law, in relation to the power of certain towns.

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 on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1223, by Senator LaValle, Senate Print 1969, an act to amend the Public Health Law, in relation to authorizing and directing.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1224, by Senator Skelos, Senate Print 3069, an act to amend the -

SENATOR BRUNO: Lay it aside for the day, please.

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

THE SECRETARY: Calendar Number 1225, by Senator Kuhl, Senate Print 3245, an act to amend the Vehicle and Traffic Law, in relation to exempting.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46. Nays, 3. Senators McGee, Montgomery, and Sampson recorded in the negative.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1226, substituted earlier today by Member of the Assembly Bragman, Assembly Print Number 5607A, an act to amend Chapter 69 of the Laws of 1992.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1227, substituted earlier today by Member of the Assembly Schimminger, Assembly Print Number 7643, an act to amend the State Finance Law, in relation to the linked deposit program.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1228, by Senator Marcellino, Senate Print 4134A, an act to amend the Environmental Conservation Law, in relation to management.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. 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 1230, by Senator Stafford, Senate Print 4207, an act to amend the State Finance Law, in

relation to payment of claims.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1231, by Senator Bruno, Senate Print 4298, an act in relation in the timeliness of the election of the Village of Castleton-on-Hudson.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1232, by Senator McGee, Senate Print 4322, an act to amend the New York State Urban Development Corporation Act, in relation to the regional revolving loan trust fund.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1233, by Senator Goodman, Senate Print 4484, an act to amend the Tax Law, in relation to the provision.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1234, by Senator Stafford, Senate Print 4546A, an act to amend the Tax Law in relation to interest allowed or paid.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1235, by Senator Trunzo, Senate Print 4754, an act to amend the Vehicle and Traffic Law and Chapter 713 of the Laws of 1988.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1236, by Senator Trunzo, Senate Print 4762, an act to amend the Vehicle and Traffic Law -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1237, by Senator Maltese, Senate Print 4810, an act to amend the Environmental Conservation Law, in relation to penalties for unlawful taking.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1238, by Senator Goodman, Senate Print 4886, an act to amend Chapter 188 of the Laws of 1862, entitled "An Act to Incorporate the New York State Convention of Universalists."

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1239, by Senator Skelos, Senate Print 4900A, an act to amend the Penal Law, in relation to the criminal possession.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1240, by Senator Maziarz, Senate Print 4959, an act to amend the Town Law, in relation to authorizing the use of water rates.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1241, by Senator Seward, Senate Print 5014A, an act to amend the Vehicle and Traffic Law and the Insurance Law, in relation to assessments.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This act shall take effect in 180 days.

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 1242, by Senator Hoffmann, Senate Print 5054, an act to amend the Vehicle and Traffic Law and the Insurance Law, in relation to exclusion.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number

1243, by Senator Farley, Senate Print 5069, an act to amend the Banking Law, in relation to junior mortgage loans.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1244, by -- substituted earlier today by the Assembly Committee on Rules, Assembly Print Number 7963, an act to amend Chapter 693 of the Laws of 1996.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1245, by Senator Bonacic, Senate Print 5198, an act to amend the Administrative Code of the City of New York, in relation to the certification.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1246, by Senator Padavan, Senate Print 5616, an act to amend the General Municipal Law, in relation to tax exemptions.

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, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Senator Bruno, that completes the reading of the noncontroversial calendar.

SENATOR BRUNO: Mr. President, can we at this time take up the controversial calendar.

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

THE SECRETARY: Calendar Number 658, by Senator Saland, Senate Print 3529, an act to amend the Insurance Law -

SENATOR BRUNO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 779, by Senator Kuhl, Senate Print 2953, an

act to amend the Tax Law, in relation to the tax on sales and compensating use tax.

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

SENATOR PATERSON: Mr. President, might we hold that for a moment for Senator Dollinger, who is in the Finance Committee meeting?

ACTING PRESIDENT MEIER: We will lay the bill aside.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 813, by Senator Leibell, Senate Print 5028, an act to amend the Civil Service Law, in relation to the payment of a hazardous-duty differential.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Leibell, an explanation has been requested of Calendar 813 by Senator Paterson.

SENATOR LEIBELL: Mr. President, this bill would amend Section 130 of the Civil Service Law to authorize payment of a hazardous-duty differential subject to the approval of the Division of the Budget to employees of DOT who are working in an unavoidable, clear, and direct risk to their safety and health.

Employees of the DOT routinely work on highly traveled roads and highways. The maintenance and operation functions of these employees is vital to the state's infrastructure, economy, and the safety of our state.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator Leibell would please yield for a couple of questions.

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

SENATOR LEIBELL: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, have you approximated what the cost of providing this new protection will be to the state?

SENATOR LEIBELL: It would depend on negotiations that would occur between the state and the bargaining unit, as to what sort of funds would be available to cover any sort of differential.

SENATOR PATERSON: Well, Senator, that actually brings me to the next question. I thought that perhaps something that we described as hazardous, just by the nature of the definition, is something somewhat subjective. And that being the case, I'm wondering why this was -- would not be an issue that would have been handled through collective bargaining.

SENATOR LEIBELL: Well, it is in effect handled through collective bargaining, because it's something that the negotiating unit is going to be discussing with the commissioner.

But in terms of it being a subjective test, we all know the tremendous job our workers for DOT do, and we know that

these are some of the most dangerous jobs in the State of New York. And in fact, it's safe to say as you and I drive home from this session this week we will pass many of these workers. And as many cars whiz by them -- not your car or my car, but as many others drive quickly by them, we can see what dangerous work that is by the very nature of it.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Well, Senator, if your car went by them, I'm sure they'd observe it. If my car went by them, that would really increase the need for this legislation.

So I just wanted to just get from you if it is the subject of collective bargaining. In other words, what you're saying is you want to establish what the standard is through the legislation and then the collective bargaining can take place from there?

SENATOR LEIBELL: I think it is safe to say what this legislation attempts to do, recognizing that there will be collective

bargaining, is a recognition of the uniquely dangerous that work that these highway and bridge workers do for our state as employees of DOT.

SENATOR PATERSON: Very well stated, Senator. If you would yield for one last question.

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Mr. President, my question to -- my final question to Senator Leibell just involves the delineation of which employees would be affected by the new regulation we would be establishing. In other words, which of our DOT employees, what areas would you define that they be working in?

SENATOR LEIBELL: To respond, Senator, there's two pieces of that, one of which would be, of course, collective bargaining, which would identify such workers. But also the commissioner in charge of that agency would have responsibility for identifying such workers, working with OER.

ACTING PRESIDENT MEIER: Senator

Duane.

SENATOR DUANE: If the sponsor would yield for a couple of questions.

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you, Mr. President.

Can you tell me what the universe of people that would be covered by this and what the low end in a year and the high end of the number of people would be?

SENATOR LEIBELL: That hasn't been determined yet.

SENATOR DUANE: If the sponsor would yield to another question.

SENATOR LEIBELL: Yeah.

ACTING PRESIDENT MEIER: Senator Leibell continues to yield.

SENATOR DUANE: If you could just maybe give me the broadest possible guesstimate. I mean, are we talking 5,000?

Are we talking 500? I'm just trying to find the range.

SENATOR LEIBELL: Senator Duane, it's hard for me right now to respond to that. I can't tell how many people DOT has out there in the work force right now, today, who are doing this type of job. And I'm sure the number fluctuates.

This is more of a recognition that -- it could be a large number, it could be a small number. But it's more of a recognition of the dangerous nature of the work these public employees do.

SENATOR DUANE: I just want to get a clarification from the sponsor, Mr. President.

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

SENATOR LEIBELL: Yes, I do.

SENATOR DUANE: You said you didn't know at this time.

SENATOR LEIBELL: No, I don't know right now.

SENATOR DUANE: Through you, Mr. President.

Could you tell me where else in state government this kind of hazardous-duty differential is being provided?

SENATOR LEIBELL: At what other agencies? I'm not -- I'm not in a position to answer which other agencies may have it. I'm not sure if the State Police, for instance, have something for a unique assignment. I'm not familiar with that.

SENATOR DUANE: I'm very sorry, Mr. President, I was unable to hear the response. I just -- I don't know why.

ACTING PRESIDENT MEIER: Senator Leibell, could you repeat your response?

SENATOR LEIBELL: Yes. I'm not familiar with -- there is the capacity to negotiate these in contracts, but I'm not familiar today as to which ones they're in.

SENATOR DUANE: Then if I may ask another question, Mr. President.

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

SENATOR LEIBELL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering where -- as opposed to through collective bargaining, but through legislation - hazardous pay has been provided, in which agencies and with which duties hazardous pay is being provided because of legislative action.

SENATOR LEIBELL: This is the only place legislatively that I'm aware of that it would be done.

SENATOR DUANE: If it were to be passing today.

SENATOR LEIBELL: Yes.

SENATOR DUANE: Thank you, Mr. President. Thank you.

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 Bruno.

SENATOR BRUNO: Mr. President, can we at this time take up Calendar Number 1219.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1219.

THE SECRETARY: Calendar Number 1219, substituted earlier today by Member of the Assembly Koon, Assembly Print Number 3030, an act in relation to permitting.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Bruno.

SENATOR BRUNO: Can we stand at ease, please, for just a few minutes, Mr. President.

ACTING PRESIDENT MEIER: The Senate will stand at ease.

Senator Bruno.

SENATOR BRUNO: Mr. President, would you recognize Senator McGee for a motion.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: On page Number 11, I offer the following amendments to Calendar Number 347, Senate Print Number 3396A, and ask that said bill retain its place on the Third Reading Calendar.

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

SENATOR McGEE: Thank you, Mr. President.

(Whereupon, the Senate stood at ease at 11:40 a.m.)

(Whereupon, the Senate reconvened at 11:48 a.m.)

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Can we at this time return to reports of standing committees.

I believe there's a report at the desk from the Finance Committee.

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 Commissioner of Agriculture and Markets, Nathan L. Rudgers, of Burnt Hills.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: It is a pleasure to yield to the Majority Leader for this very fine nomination.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Thank you very much, Senator Stafford, Mr. President.

We're very fortunate, and I am pleased to rise and speak on behalf of a constituent of the 43rd Senatorial District, Nathan Rudgers, who is the present Acting

Commissioner of Ag and Markets. A highly qualified individual, a credit to the Governor, and will be a credit to all the people of this state.

He was raised on a 500-acre farm, a cash crop farm. He knows what it's all about. He spearheaded efforts on behalf of the Governor and the people of this state in creating increased revenues, jobs worldwide for New York State products. He is nationally recognized as providing the leadership for Governor Pataki's Agricultural Environmental Management Program and helping farmers comply with state and federal water protection acts. He implemented the programs funded by the Governor's Clean Water, Clean Air Bond Act. He executed the Governor's Farmland Protection Program, 17 million in grants to help preserve farmland. He directed the New York State Ag Quality Assurance Program, to reduce ag-related food-borne illnesses. He served as a leader on the Governor's Dairy Task Force.

He is married to his wife, Nancy, for the last 16 years. He has three children in Burnt Hills, the Ballston Lake schools. He

is a graduate of Cornell University.

And, Mr. President and colleagues, I am proud to support such a capable, qualified individual who already has distinguished himself as a real public servant to the people of New York State.

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: Thank you, Mr. President.

I'm pleased to rise to second the nomination of this outstanding candidate. Our Governor himself was a farmer, grew up on a farm, and has a tremendous interest in agriculture. And I think it's rather significant that he picked somebody that is so eminently qualified as this young man -- and he is a young man.

As Senator Bruno said, he grew up on a farm, was educated at Cornell University, in their agriculture program, and -- one of the finest schools in the world -- and is somebody that has truly distinguished himself in this area of agriculture. And has served as Deputy Commissioner and First Executive

Commissioner and so forth.

I think you're well qualified to take over one of the most important industries in this state. Agriculture is a wealth-producing industry, something that New York is very, very proud of. And I'm sure that we're going to go to great heights under your leadership, and I wish you well in your tenure.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Mr. President.

I'm very pleased to support and second the nomination of Nathan Rudgers today. He has demonstrated his ability to reach out to people across this state. I think indicative of that was a very gracious letter he sent to every member of the Senate offering to meet personally to discuss his vision for agriculture going into the next millennium. He has demonstrated the same type of outreach and willingness to learn from others in virtually every capacity of agriculture in this state.

Organizations like the New York State Grange, certainly the Farm Bureau, people who are in preeminent positions at Cornell have all written lauding his unique accomplishments and capabilities to fulfill this task.

I've enjoyed the opportunity to visit with Nathan in my office on several occasions, and I'm confident that this choice of a new commissioner by Governor Pataki is going to bring New York State agriculture to a new high. Not only is it New York State's number-one industry today, but it is one of the most promising industries for all of our economic development opportunities in the years ahead.

ACTING PRESIDENT MEIER: Excuse me, Senator Hoffmann.

Can we have some order in the chamber? If you have a conversation, take it outside.

SENATOR HOFFMANN: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: Nathan Rudgers recognizes that economic development opportunities abound within the field of agriculture.

And he is already engaged in active discussions with Empire State Development Corporation and with many of the regional economic development programs that we fund through the state and at the local level. It is this type of networking, it is this understanding that is going to allow him to direct this very, very important agency in a way that it has never been directed before.

Not only that, Nathan understands that farms are in varied sizes and many, many different forms of agriculture in this state. There are those who have been involved in the department before who were sometimes not clear about the very significant role of the small farms. There were some people in previous administrations who did not understand the significance of cattle farming and whose focus was primarily dairy.

We are, of course, the third largest dairy-producing state in all of the

United States, but we are also a growing cattle-production region. We are growing in the areas of horticulture. We are growing in the areas of manufactured product from the dairy industry. We are an extremely diversified agriculture, probably more diversified than any other state in the nation.

It is a very, very great task that lies ahead for this commissioner. But I believe that he is capable of the job, and I applaud Governor Pataki for selecting him. And I look forward to working with him in the years ahead. Thank you.

ACTING PRESIDENT MEIER: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

I too rise to second the nomination of Nathan Rudgers and to commend the Governor on the recommendation that he has sent the Senate.

I had the occasion to spend a fair amount of January one year with Nathan in the North Country as our agriculture community

struggled to deal with the impacts of the ice storm. And Nathan became a regular visitor to the North Country and was instrumental in leading the agency and working through the impacts for the dairy industry. So I've seen firsthand the crisis management that he can bring to the job, and I anticipate that in calmer times that same kind of skill will serve him well as commissioner.

More importantly, we've had the opportunity to have conversations not only between Nathan and myself but with members of the agricultural community in my district. And they have a strong regard for his understanding of the need to diversify agriculture in this state and to ensure that we pursue new enterprises, and that in fact we give the agricultural community the opportunity to be equally as entrepreneurial as the other elements of our private sector in this state.

And that with a commissioner that understands that and provides that kind of leadership, I think we can continue to see agriculture maintain its primary role as the

number-one industry in this state but also to expand and grow that industry.

So I would encourage all of my colleagues today to follow suit of the Ag Committee and to join in making the confirmation of Nathan Rudgers as commissioner a reality this afternoon.

Nathan, congratulations.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: Mr. Presid ent, I too would like to rise to second the nomination of Nathan Rudgers.

I think that -- I had the opportunity to meet with him earlier this year before he was ever being considered, and I found him to be very informative. And I know that he's done a great job in his previous position.

I know that having grown up in agriculture and having been educated in agriculture, he will do a great job as commissioner. I look forward to working with him in the future as the ranker on agriculture.

I think that he will give us the kind of leadership we need to move on into the next decade, and he'll just do a wonderful job. And I think it's a great appointment by the Governor.

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: I also rise to support the nominee.

It's interesting the support that you have, bipartisan support, people from throughout this state rising on your behalf.

And what I think is particularly significant here is that this individual rose through the ranks in this particular department and earned this position, earned this position because of the wonderful job he has done.

There's another reason why I'm rising and why I supported this nomination from the first moment I learned that he was involved in it and that he was interested in it. It is because we have in my district the great New York State Fair. And I understand how important it is to our local economy and

how he believes that this state fair is bigger and better and it will continue to grow under his leadership.

So for all the reasons already discussed and for the reasons I raised, I'm very proud to support him. And I know he's going to do a wonderful job for this state, as he has done in the past.

ACTING PRESIDENT MEIER: Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President.

I also rise to congratulate Governor Pataki for submitting this outstanding candidate for the position of Commissioner of Agriculture.

I met with Nathan Rudgers earlier. We discussed various topics. And the thing that impresses me the most about him is that it's not only that he knows every aspect of agriculture and where this entire industry should be taken to in the new millennium, but the fact that impresses me the most is that being so articulate and so bright, he is also, Mr. President, a consensus-builder. And

people who are that way and do have incredible people skills are able to motivate others to work towards a specific goal.

So again, I feel privileged to stand up and second his nomination. And I again congratulate once more the Governor for submitting -- choosing him for this position.

You deserve it. Congratulations.

ACTING PRESIDENT MEIER: Senator Kuhl.

SENATOR KUHL: Yes, Mr. President. I rise to second the nomination of Nathan Rudgers.

I just wanted to say Nathan, congratulations. I appreciate the fact that you're willing to take on this responsibility, and it is a tremendous responsibility.

I had the good fortune, as all of you know, to chair the Senate Agriculture Committee for 12 years and just was reassigned to another post this last January. During that time, Nathan was -- he not only had to deal with me, from Steuben County, he had to deal with the commissioner, who was from Steuben County. So he had two Steuben

Countyites who at times were rather opinionated and very straightforward in our discussions. So anybody who can put up with that experience certainly can put up with most anything in New York State.

So, Nathan, congratulations on your appointment. I look forward to working with you. And I know that you'll do an outstanding job between in the agricultural arena and certainly in the agricultural industry here in New York.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the nomination?

The question is on the confirmation of Nathan Rudgers as Commissioner of Agriculture of the State of New York. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: Nathan Rudgers is hereby confirmed as Commissioner of Agriculture of the State of New York.

Commissioner Rudgers is with us today in the gallery, along with his wife, Nancy.

Commissioner, on behalf of the Senate, welcome and Godspeed with your very important duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As Commissioner of Human Rights, Jerome H. Blue, Ph.D., of Freeport.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Mr. President, it's a pleasure to yield for this fine nomination to the Senator from the Eighth District, Senator Fuschillo.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

It's an honor for me to rise to second the nomination of an individual from my district who has dedicated his life to public

service.

Dr. Blue is the president and chief operating officer of the Roosevelt Island Corporation. And during his tenure there, he has initiated sweeping changes to reverse a deficit there and let them be self-sufficient. He has been awarded the prestigious Congressional Science and Engineering Fellowship sponsored by the Society for Research in Child Development and the American Association for the Advancement of Science.

Prior to joining the Roosevelt Island Operating Corporation, he was the vice president for research and program development at the New York State Housing Finance Committee. He was a member of the Associated Medical Schools of New York, a member of Minority Advisory Board.

I am confident that Dr. Blue will bring -- find the necessary balance and sensitivity for the Commissioner of Human Rights, and I wish you well and lots of success in your new appointment.

And I want to compliment the Governor on such a distinguished individual

who has really dedicated his life to public service.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the nomination?

The question is on the -- I'm sorry, Senator, how could I not see you?

Senator Mendez.

SENATOR MENDEZ: Thank you, Mr. President.

I also want to rise in support of the confirmation of Dr. Blue, who I -- he's not my constituent; however, he's been working in an area of my district, as the president and chief executive officer of the Roosevelt Island Corporation. And during the time that he's been there, as it was noted earlier, he's done an extraordinary job. He's a very, very skillful administrator and always willing to cooperate with people and always trying to get people to work together to achieve aims that are needed for the organization.

So again, I want to congratulate Governor Pataki for submitting his nomination and I am sure that Dr. Blue will do an

excellent job as the new Commissioner of the Human Rights Commission.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Any other Senators wish to be heard on the nomination?

The question is on the confirmation of Jerome Blue as Commissioner of Human Rights. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: Jerome Blue is hereby confirmed as Commissioner of Human Rights.

Commissioner Blue is with us today in the gallery. And I wish you well with your duties and extend greetings from the Senate.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of the Adirondack Park Agency, James T. Townsend,

Esquire, of Rochester.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of James T. Townsend as a member of the Adirondack Park Agency. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: James T. Townsend is confirmed as a member of the Adirondack Park Agency.

The Secretary will continue to read.

THE SECRETARY: As a member of the New York State Bridge Authority, James P. Sproat, of LaGrangerville.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move

confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of James P. Sproat as a member of the New York State Bridge Authority. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: James Sproat is confirmed as a member of the New York State Bridge Authority.

The Secretary will continue to read.

THE SECRETARY: As a member of the Ogdensburg Bridge and Port Authority, Patrick E. Hackett, Sr., of Ogdensburg.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of Patrick Hackett as a member of the Ogdensburg Bridge

and Port Authority. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

The Secretary will continue to read.

THE SECRETARY: As members of the Small Business Advisory Board, William Hockenberger, of Penfield, and Emma Kounine, of Mahopac.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move confirmation, please.

ACTING PRESIDENT MEIER: The question is on the confirmation of William Hockenberger and Emma Kounine as members of the Small Business Advisory Board. All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed,

nay.

(No response.)

ACTING PRESIDENT MEIER: The nominees are confirmed.

The Secretary will continue to read.

THE SECRETARY: As a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at St. Albans, Evelyne Jeanniton, M.D., of Bayside.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Move confirmation.

ACTING PRESIDENT MEIER: The question is on the confirmation of Evelyne Jeanniton as a member of the Board of Visitors of the New York State Home for Veterans and Their Dependents at St. Albans. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

nominee is confirmed.

The Secretary will read.

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

Senate Print 1600A, Budget Bill, an act making appropriations for the support of government, legislative and judiciary budget;

Senate Print 5833, by the Senate Committee on Rules, an act making appropriations for the support of government;

And Senate Print 5835, by the Senate Committee on Rules, an act to amend the Education Law and Chapter 756 of the Laws of 1992.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: All bills directly to third reading.

Senator Bruno.

SENATOR BRUNO: Mr. President, can we return to the controversial calendar and call up Calendar 1215.

ACTING PRESIDENT MEIER: The Secretary will return to the controversial

calendar and will read Calendar 1215.

THE SECRETARY: Calendar Number 1215, by Senator Bruno, Senate Print 3A, an act in relation to enacting the Jobs 2000 for New York State Act.

ACTING PRESIDENT MEIER: Senator Bruno.

SENATOR BRUNO: Mr. President, the legislation before us continues the partnership that this house has had with Governor George Pataki to help move this economy in New York State forward, to create jobs and to keep the people of this state prospering.

What's before us we refer to as Jobs 2000, J2K. J2K has several parts to it. But before we talk about the specifics, I'd like to speak generally as to why New York State has to focus on making this state now more competitive with so many of the other states that have been spending hundreds of millions of dollars in high technology, research, high technology, biomedical research.

The University of California gets

about a billion and a half dollars with '86-'87 -- or '96-'97 numbers. SUNY Albany and SUNY New York has been getting in the neighborhood of $445 million in research. The Health Institute has a pot of money. It grew from 2½ billion to over 8½ billion. New York State lost 27 percent of their share.

In California, with all the research that takes place, there are over 2,000 jobs created around the university system. In Massachusetts, our neighbor, there are 4,000-plus companies that are created as a result of their investment in high technology and in research.

So New York State has to catch up. We are lagging behind. We are losing ground. There's a huge universe of research dollars out there. It is mind-boggling when we talk about the tens of billions of dollars that government and industry spends on research.

J2K is aimed directly at we in New York State participating in that huge resource that's out there. And the large part of this program -- and by the way, the entire dollar amount is well over $800 million in this

program. 75 percent of the money is already within the state, within the budget. It has to be reallocated so that we get a more direct result in terms of economic development and job creation.

The first part of this calls for consolidating many of the departments that have to do with companies here in New York State in the high tech industry into one Office of Higher Education Technology, moving many of the resources out of the Education Department that relate to this, moving out of the -- we're moving science and technology out of Economic Development Corporation and combining those with other places where people now have to go, the six or eight different places, to get help to get direction, into one office. That office will be governed by a board appointed by the Governor, by the Majority in the Assembly and this house.

The bottom line is that it will help us get some of the greatest research brains in the country. And where the greatest researchers are, that's where the dollars flow. So New York State has been losing

ground to California, Massachusetts, Texas and other states because we aren't able to compete and pay the talent that it takes to bring them to New York State.

And when you bring the talent here and to help get them here, you have to have world-class facilities. So we're talking about $10 million going to enhance the CAT program that's established, Centers for Advanced Technology. We're talking about technology transfer with millions of dollars so that when research takes place, it transfers into jobs. We're talking about all of the things that are necessary to build world-class research facilities and directing dollars to do that.

Secondly, New York State spends over a billion dollars in training people. We spend most of the money on people who are unemployed. We talk about redeploying many of those dollars in the Employment Readiness Act, which is part of J2K. And in the Employment Readiness Act, we can retrain people who become, in terms of their ability, obsolete as technology moves forward. And those dollars

will be directed to retrain people to help them retain the jobs that they already have.

As ludicrous as it appears, now a company is better off firing someone, laying them off, dismissing them and then getting assistance in hiring new people off welfare or who have been unemployed for months or years and training them with government dollars. So the Employment Readiness Act corrects that.

Delphi Harrison, receiving about $19 million to retrain people so they can stay in the western part of the state where they employ 6,000 people, they're investing $350 million. That's what we're talking about.

Another part of this is called Pipeline for Jobs. High tech industries use a lot of fresh water. This redirects over a $100 million of revolving loan funds combined between the government and industry to get fresh water into places where it now doesn't exist, for drinking and for manufacturing purposes.

A chip fab plant takes like 6 million gallons of water a day. We've got

to do that if we're going to compete with the other states that are attracting chip fab plants. Chip fab plants can employ 2,000 people, and then other businesses surround them. We are now competitive, and we've got to finish what it takes to help us attract these jobs and these facilities.

Another part of the program is called the Entrepreneurialship Venture Capital. The entrepreneurialship consists of about $4 million being directed, starting in grammar school through high school into college, to help people get into business for themselves. Many people go into business, they don't have a clue on what the jeopardy is, what the pitfalls are, and 90 percent of the businesses fail.

So this starts to train young people, ends up with a degree, for the first time -- at Empire State College and others - in entrepreneurship, a bachelor's degree in entrepreneurship. We think it's an integral part of all that takes place in this plan.

And the last part of it is a venture capital piece. We are directing, with

the public pension funds in this state, a $250 million pot for venture capital companies that want to originate or grow in New York State. There's 150 million now in private insurance companies and banks that's available. So this -- and we continue that - this becomes about a $400 million resource. Because when companies want to start in the high tech area, when they want to grow, they need venture capital money.

What better use can public pension funds be put to than to help create jobs by the thousands here in New York State? Those funds now, over a hundred billion dollars' worth, are invested all over the world. Other states and other countries benefit from the investment that's made by our public employees and their own pension funds.

So we're saying it's time now to redirect those funds, a small portion of them -- $250 million is a small portion of a billion -- I think the fund is about a billion -- what, 15 -- $115 billion, something in that neighborhood. The number is so staggering I can hardly get it out. Much more

than our budget. Almost twice what our budget is.

So I am saying to my colleagues, to you, that it is time now for us to put our minds and our hearts together and do this. This is not posturing. This is not politics. This plan was put together with the resources from the university, from private colleges, from the Business Council, from individual businesses in a reaction to what they have told us that we need in this state to be competitive.

So, Mr. President and my colleagues, I ask you to support this and to help, with your support, move this through the Assembly. Because I know that the Speaker has had a positive reaction, as many of his colleagues have. And the Governor has had a positive reaction.

Thank you.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: Thank you, Mr. President.

I rise again, as I have on several

occasions, to congratulate our Majority Leader, as I had in the legislation that we passed in this body that led up to the creation of the STAR program, the legislation that created college savings plan that Kiplinger's rated as the number-one plan in our country. And I rise again today to compliment the Majority Leader.

And for those who were listening, the Majority Leader spoke without any notes, extemporaneously, on something that has been very, very important to him, and he has worked in a hands-on way in the creation of this legislation.

Senator Bruno and I have for a period of twenty years been interested in the marriage of higher education and business. And over the years, we've been involved in the creation of the program the Centers of Advanced Technology, the creation of getting those centers and the research institutions to get involved in attracting businesses in and around and create technology parks.

There is one Senator's district in North Greenbush, and RPI is a Center of

Advanced Technology. There's one that exists at Stony Brook, and Stony Brook is a Center for Advanced Technology, and the technology park in and around that university. And we can look across the state in efforts where we are leveraging the intellectual resources, the fiscal and the physical resources of our state in a marriage between higher education and business.

J2K is now one other step to bring a focus -- and by the way, if everyone was as focused as our Majority Leader, who can be like a laser beam when he focuses on a topic, New York State will be -- or should have been and will be the number-one state in attracting research dollars both at a federal level and at the corporate level.

And that was one of the questions that Senator Bruno and I asked at the beginning of this venture many, many months ago. And by the way, J2K was not created in a matter of weeks but over many months - probably an eight-, ten-month period of research, development between staffs who have been focused on this issue at his direction.

And so we are creating something very, very special here today, as the Majority Leader outlined for you: specific pots of money to deal with the retention and attracting of the best and brightest faculty across our nation, to make sure when a university has a best and brightest professor, that that best and brightest professor will have the physical resources to create what it is that they are involved in, to provide incentives for the Centers of Advanced Technology.

But this is more than the marriage of higher education and business. It brings a focus by creating an Office of Higher Education and Technology, so that there will not be pieces in the State Ed Department and pieces in Economic Development, but there will be one council and one staff whose purpose shall be to enhance the higher education and economic development strategies for this state, so that we can compete with Massachusetts, we can compete with California, North Carolina, and other areas of the state, that we will take pieces in the education and

training parts, from contract courses and other pieces, to make sure that the corporations of our state are having a trained work force to be able to compete with other areas of the state.

So this is both a congratulatory speech for our Majority Leader, who has been just absolutely incredible on this legislation, but, more importantly, to let everyone know that with the passage of this act, we are creating an economic development strategy that will be second to none in these United States.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Yes. Will the distinguished chairman of the Higher Education Committee yield to a question or two, sir?

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR LACHMAN: Thank you.

I also commend this bill, which is long overdue. And as you said, other states, such as North Carolina and Governor Hunt, have pioneered in the area of higher education and technology, and I look forward to progress in this area in New York State.

My concern, Senator, is what relationship will this division have with the State Education Department and the Commissioner of Education and their excellent goals for the future? Because as we all know, this Commissioner of Education has emphasized goals that we can all be proud of in terms of uplifting the entire educational structure of the State of New York.

Will there be a direct relationship to the State Education Department? And I appreciate your response to that.

SENATOR LAVALLE: Senator, one of the things that you have heard me talk about many, many times is that the State Education Department, and specifically the Board of Regents, has an enormous number of areas that they are responsible for -- elementary and

secondary education, higher education, the professions, the libraries, the museums, the archives.

And so what we are doing here today is we are saying that we need to bring together under one tent the focus of higher education and economic development. We are moving, as Senator Bruno has indicated, the Science and Technology Foundation in and under the council, the Office of Higher Education and Technology, as we are with contract courses and the small business development centers and on and on, so that we have one focus.

That has not been happening. It has been in various agencies and various pieces. The way we chose to bridge, to make sure that there was input, was the representation on the board, so that we understood what was taking place within the State University, what was taking place in the State Education Department. And through those representatives on the council, and the office is beneath the council, that we would be able to use whatever resources that we needed.

Because, as you well know, there has -- recently we are talking about this seamless program from K to 16. And so elementary and secondary and what's going on as we train our young people is equally as important. And that will come through the council down into the Office of Higher Education.

I just wanted -- as I said, that there's representation on the board from the Board of Regents, from the State University and so forth, independent sector colleges, so that we're using all of the resources and getting the input.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I rise -- I'm going to vote in favor of this proposal, Mr. President. But there are three things that I would just like to air as concerns that I hope, if we get to a conference committee on the Jobs 2000 proposal, will be considered.

First of all, I listened

attentively when Senator LaValle talked about the marriage of higher education and technology. I think that's a good idea too. But I think after the marriage occurs, it ought to have the same home it's had before. And I think that home is clearly in the Department of Education and not creating a new umbrella agency.

I think the last thing, we all agree, that we need in this state is another new agency. Why not leave it that the Department of Education where it belongs? I know this commissioner has been a driving force about trying to make that marriage work, sometimes with reluctant or at times incompatible partners at the table. But the home for this new married couple ought to be in the Department of Education, so that the education of our children and the education of young adults focuses on that technology. We don't need to create a new agency for that. Leave it in the Department of Education.

Secondly, the venture capital fund, which is a great idea to use the pension funds of the State of New York, which is very

sizable -- as Senator Bruno said, almost incomprehensible in size -- not a bad idea to have a venture capital fund in there.

I understand that this comptroller has one, that it's worked pretty well. I don't know why we would again direct him to do this when it's something he's already doing and he's got the vested discretion given to him by the people of the State of New York to make those judgments. I would suggest it's a good idea. I hope, if it finally comes to pass, we leave that discretion firmly in place with the comptroller.

And lastly, I was a little bit nervous, Mr. President, about Senator Bruno's comment with respect to the pure waters portion of this, the idea that we're going to take our water resources and take them to the chip plants. I would just suggest to the Majority Leader and to all of my colleagues that that's backwards.

We have water resources and the ability to deliver water in the major cities of this state. And I would suggest that what we ought to do as our strategy is instead of

saying "Build your chip plant in the middle of nowhere in this state and we'll bring the water to you," instead, tell the chip manufacturers to build where the infrastructure's already been invested in. That would be in places like the city of Rochester.

And my concern is we debated with Senator Rath a sprawl bill, a bill that will restrict the sprawl, a bill that will bring the jobs back into the urban communities, a bill that will bring them back to the infrastructure that's already present in our urban areas. It would seem to me that the way to do this is not to take the water resources to the chip plants, but instead encourage the chip plants to locate near the water resources, where there are available workers, where there are lots of people who are looking for the high-paying, $2,000-per-plant jobs that Senator Bruno is talking about.

We already have that infrastructure there. I would strongly suggest that the better planning model is to simply look to locate those chip plants in the area where

water resources are located and not simply push the water resources out and sprawl it out.

ACTING PRESIDENT MEIER: Excuse me, Senator Dollinger.

No? All right, go ahead.

SENATOR DOLLINGER: So that concludes my -- Mr. President, I'm going to vote in favor of this, because I think it needs to be moved to the conference committee. I do so with those reservations, and I hope that they'll be considered at that time.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Thank you, Mr. President.

Senator Dollinger alluded to an issue that's very near and dear to my heart, this year and next year and probably forever, the issue on smart growth and economic competitiveness.

And you spoke about Senator Bruno's comments about taking water, fresh drinking water, to places where there is not water now, so that we can encourage the economic

development that so rightly should be happening all across New York State.

A county that's near and dear to both you and me, Genesee County, has adopted a smart growth strategy in order to develop where they want to develop, where companies might feel was appropriate for them without diluting -- if I can use that word when I talk about water -- their bang for their buck, if you will.

I hear you loud and clear about the old infrastructure and taking the plants to where the old infrastructure is. But we are advised with smart growth that very often the cost of redoing on old infrastructure -- and I'm not talking about brown fields, I'm talking about infrastructure -- is more than going out to a place and running a water line there in order to get the job done.

I suggest to you, as smart growth grows up in New York State, we will see communities telling us which is best for them and which they need for us to help them with. What we don't need to do is to mandate to them how it should be done and where it should be

done. But we need to be a helpful partner for our communities so that we can attract not only chip fab plants on fresh-water lines but a lot of other kinds of businesses to New York State.

And I'd love to pursue this conversation with you privately sometime.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. I wonder if the sponsor would yield for a couple of questions. I guess Senator Stafford would be the appropriate one. Or Senator LaValle. That's fine too, because it's really on higher ed.

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MONTGOMERY: Yes. Senator LaValle, I note in the legislation that the new Office of Higher Education and Technology, it's defined as this new entity

which will result in the transfer of certain functions from the Science and Technology Foundation, transfer of certain functions of State University of New York and City University, Higher Education Economic Development Program, and so forth and so on.

So the council, this new council that we're setting up, essentially removes higher education as a function of state education, into -- as a new entity. We're developing a new higher education entity; is that correct?

SENATOR LAVALLE: Senator, in answer to the question that Senator Lachman had asked, one of the problems that we have in New York State, as opposed to other states, we have a State University system, and it has a board. We have a City University system, and it has a board. We have a Board of Regents that has -- that is an educational policy-making function for both elementary and secondary and higher education. And of course there is our Board of Regents.

That is all factionalized, as you can see. There are three separate boards and

decision-making bodies for higher education. As well as, as you had indicated, in economic development. We have the Science and Technology Foundation. In SUNY, we have the Small Business Development Centers. We have contract courses in State University.

So what we're doing -- and you're right -- is we are creating a freestanding agency, and the agency has a council. And that council has representation from the State Education Department, the City University, the State University, and from the independent sector. And so we're trying to bring together, by using representatives from the various boards onto this council. And beneath the council is the creation of the Office of Higher Education and Technology that will actually be the staff-driven body after the policy is made by the council.

SENATOR MONTGOMERY: So the answer to my question is that we are in fact creating an entirely new entity for higher education?

SENATOR LAVALLE: Yes, that is correct. Yes, that is correct.

SENATOR MONTGOMERY: All right -

SENATOR LAVALLE: In regard to the scope, the duties and powers that are - would be articulated.

SENATOR MONTGOMERY: And the Commissioner of Education has no function or role in this -

SENATOR LAVALLE: In higher education, that is correct. That is correct.

SENATOR MONTGOMERY: Okay. Now, the membership you talk about, we will have membership from SUNY and CUNY and wherever. But as I read in the legislation, there are seven members that are specifically directly appointed by the Governor and four members appointed by the Legislature, two from this house and two from the other house.

Okay. So in fact, this new council is controlled by the Governor, and the Governor selects the chairperson of this council.

SENATOR LAVALLE: Yes. Yes.

SENATOR MONTGOMERY: Okay. Now, the other question -

ACTING PRESIDENT MEIER: Senator

Montgomery, do you wish Senator LaValle to continue to yield?

SENATOR MONTGOMERY: Yes, if he would continue to yield.

ACTING PRESIDENT MEIER: Does the Senator yield?

SENATOR LAVALLE: Yes.

SENATOR MONTGOMERY: Now, under powers and duties of the new council, it says on page 16, line 22, that the council shall be responsible for, one, assessing, reviewing and recommending higher educational policy, to ensure that the system of higher education continues to meet all of the higher education needs of the state, as defined by the council.

The council defines now what are the needs of the state and the higher education -

SENATOR LAVALLE: Correct.

SENATOR MONTGOMERY: Okay. It also administers financial aid and scholarship programs, except for those administered under HESC.

SENATOR LAVALLE: That is correct.

SENATOR MONTGOMERY: And it also ensures that planning government and management practices in the higher education community are effective.

So essentially, it is now the council which will define the goals and objectives and needs of higher education as it relates to the state, and that seems to be driven by business and technology.

SENATOR LAVALLE: Let me -- let me -- the answer certainly is that we -- as I have indicated several times, we want to marry higher education and technology -

SENATOR MONTGOMERY: I understand, yes.

SENATOR LAVALLE: -- and business. But higher education in this state is not housed really under one roof. We have a SUNY board. We have a CUNY board. We have the Commission of Independent Colleges and Universities that deal with -- and it's a statutory creation -- that deal with the advocacy for our independent colleges, our private colleges.

Now, as it exists today, master

planning is done in the State Education Department. So that means that any college, SUNY, SUNY Buffalo, wants to amend -- put in a new program, they have to go to the State Education Department. State Education Department has no representation from the State University. If City University wants to add a program, they must go to the Board of Regents.

Under this council, there is representation from CUNY, there is representation from SUNY, there is representation from the independent - Commission of Independent Colleges and Universities. And so here we are actually giving broader representation in terms of points of view on higher education than currently exist.

SENATOR MONTGOMERY: Thank you.

Mr. President, one last question, if Senator LaValle would continue to yield.

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

SENATOR LAVALLE: Yes. Yes.

ACTING PRESIDENT MEIER: The

Senator yields.

SENATOR MONTGOMERY: Senator LaValle, there are two areas that - unfortunately, I haven't had a chance to read through the entire part of the bill. But I'm just wondering how does -

SENATOR LAVALLE: Senator, this is a 160-page bill. So that I compliment you on having read what you've read.

SENATOR MONTGOMERY: I just want to ask you, one of the important areas in higher education has been traditionally, in this state, equal opportunity programs for people who need a little bit additional assistance to just the straight-out financial assistance. So I'm just wondering how that would work under the council.

And, two, part of the mission of universities in this state has been also the research aspect. I'm just wondering what happens with that and who makes the decision about what research is important and how that would be treated in terms of funding vis-a-vis the council -- that the council will make the decision for the university as to what's going

to be important in terms of research?

SENATOR LAVALLE: Senator, as you know, this Legislature has created the opportunity programs. I myself and Assemblyman Eve have been the sponsor of the Professional Opportunity Program called POPS, the Step program, the C Step program. And many others, members here, have sponsored legislation.

We fund those programs through the budget process each and every year. This Legislature ensures, through the budget process, that these programs are properly funded, because of the involvement of this house and the Assembly. That would not change at all under this legislation. That process, in terms of the budget and the funding of those programs, would continue as it has in many years.

I think Senator Dollinger put it aptly, that we are creating a new house. And sometimes being in a new house is not such a bad thing. It brings a new sense of vitality and creativity and involvement. So that would not change.

In terms of research, certainly this goes to really the heart of what we're trying to do. Because those functions are in the State Ed Department, at SUNY, at CUNY and Economic Development. And we're trying to make sure that this state gets its fair share, and maybe more, in terms of research dollars in Washington and research dollars from our corporations that contribute a great deal to research done within our universities.

And certainly we believe that this is the best approach, to have one body whose sole focus and mission is to try and have a strategy that will bring us the greatest number of dollars. Right now we're losing to California, Massachusetts, North Carolina. We are the Empire State, and I believe this legislation would make us the Empire State in terms of research dollars.

SENATOR MONTGOMERY: Thank you, Mr. President.

I certainly wholeheartedly agree with Senator LaValle and the Majority Leader that we need to tie higher education, those institutions, much more closely to our

economic development in our state. I think, however, that this legislation, if enacted into law and signed by the Governor, would essentially dismantle the higher education system as we know it and create something that I'm not so sure protects all of the interests that we have in terms of the mission of higher education.

And it is so -- so important, because it is through the institutions of higher education in our state that people have an opportunity to move from poverty to middle class and beyond. It is the system that launches people in our world, and especially in our state and in our nation. And I would not want us to hastily create a system that essentially is the political arm of the Governor.

And not that the Governor would not do a good job, but I don't think that we should be putting an institution of such magnitude and of such significance into a totally politicized process of decision-making.

So I'm inclined to vote against

this legislation. And there are so many things in it that I certainly would like to support, I think are excellent. But I just believe that this particular institution is too, too important for us to decide that we're going to now totally politicize it because we think that that suits our needs at the moment.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51. Nays, 4. Senators Duane, Montgomery, Schneiderman, and Smith recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Libous.

SENATOR LIBOUS: Mr. President, if I may have unanimous consent to be recorded in the negative on Calendar Number 1225.

ACTING PRESIDENT MEIER: Without

objection, Senator Libous will be recorded in the negative with regard to Calendar 1225.

Senator Skelos.

SENATOR SKELOS: Mr. President, if you would call up Calendar Number 1214, Senate 2A.

ACTING PRESIDENT MEIER: Senator Skelos, I didn't see that Senator Wright had arisen. Can I take him first?

Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President. I request unanimous consent to be recorded in the negative on Calendar Number 1235.

ACTING PRESIDENT MEIER: Without objection, Senator Wright will be recorded in the negative on Calendar Number 1235.

The Secretary will read Calendar 1214.

THE SECRETARY: Calendar Number 1214, by Senator Bruno, Senate Print 2A, an act to amend the Tax Law, in relation to the earned income credit.

SENATOR CONNOR: Explanation.

ACTING PRESIDENT MEIER: Senator

Stafford, an explanation has been requested of Section 1214 by the Minority Leader, Senator Connor.

SENATOR STAFFORD: Mr. President, again, we're continuing this very, very fine tax package. This time we're not spending, we're reducing taxes.

And I won't overdo it today and go into why we think this is necessary. But you heard me yesterday. And a number of people told me after yesterday they had heard enough. And I understand that, because we always go into the same -- make the same points.

I believe Senator Connor has -

SENATOR CONNOR: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Connor.

SENATOR CONNOR: I was tempted not to speak at all in this entire current budget exercise, because unfortunately it's not real, and it just leads to another round of press releases and whatever. And I know both houses are going through similar exercises, and I do wish we were talking about

a real budget. It's already quite overdue.

But I do want to point out that ideas matter. And I want to compliment the Majority for never hesitating to borrow good ideas from the Minority and incorporate them into their proposals.

Earlier this year, in doing the budget resolutions, we in the Minority offered a number of amendments to the Republicans' proposed tax cut package. One was to repeal the entire truck mileage tax and remove an unfair burden that hurt New York, that New York business.

We pointed out while the Majority was on the right track in looking for a tuition tax deduction, that we had a more uncomplicated and fairer way of doing it as an adjustment to income, which would benefit more equitably all New Yorkers, particularly those who do not itemize, who are -- generally tend to be lower earners. The Majority has now adopted that as well as the truck tax.

We have repeatedly over the past few years in our tax-cut proposals called for expanding the earned income tax credit. The

Majority has adopted that.

In a rather peculiar note, when we did the resolution I chided the Majority for not taking the Governor's approach to reducing energy taxes, because I thought -- and I remember saying at the time, even though there's a partisan divide, I thought the Governor was on the right track in his approach to doing this. I compliment the Majority for taking that suggestion as well.

On the tax-cut front, these are only the most recent examples of where ideas advanced by the Minority have been adopted. We had the STAR reform, the original STAR bill. We've had college tuition savings accounts, tax credits for daycare facilities and some other things that we pointed out from the old big ugly years ago, which this Conference opposed, even though the Governor was then a member of our party.

A couple of things we think are still wrong. I'm certainly going to vote for these bills, as I have for the last four years and most of the members of this conference had -- at least the ones who are still here -

and vote for the tax cuts overall. But I think there are some things that are wrong with it.

We're still backloading, the Majority is still backloading these tax cuts. I think we ought to make a bigger down payment on tax cuts. As best we calculate, you're - in effect, the Majority is proposing to make a $263 million down payment, but the ultimate liability is 1 billion 174. A lot of money backloaded. A lot of projected deficit because of this.

And let's not forget we're still facing the full cost of tax cuts enacted in the last two or three years. We still haven't paid the tab on them.

And I know there's a lot of talk, I read the press releases, the Majority over here is about a billion dollars in spending over the Governor. Well, if you add in a billion dollars in tax cuts, maybe you're $2 billion over what the Governor says. And if you're $2 billion over what the Governor says, and other press releases I read from the other house talk about dropping somewhere

between a billion and a billion and a half, I say let's all sit down and talk, because you're not that far apart, at least on the big numbers.

We're going to offer once again some amendments. We want to eliminate that marriage penalty. We think that reflects best values that all New Yorkers have. You'll hear an amendment offered to that effect to this bill. We think more sales tax reform is needed, we need to exempt health and safety items. We'll have an amendment on that.

We should get rid of the turnover tax on business inputs. That's really important to New York businesses. And we're happy to advance that amendment once again as the pro-business, pro-growth, pro-jobs program of the Senate Minority. We really think that's something we can do that will benefit all New Yorkers. That's a good, sensible, job-producing kind of tax cut.

We will also offer an amendment to finish the job on sales tax elimination -- on the elimination of sales tax on clothing.

Again, farmers. It's good that

we're looking at energy tax relief, but we will offer an amendment to provide particularly tax relief to farmers.

And we think while your approach of an IRA-type savings account for homebuyers is a good one, we still think that in another year of surplus we ought to have a suspension, a moratorium, a holiday on the mortgage recording tax. Let's, while there's still a chance, let New York homeowners refinance their mortgages. Let first-time homebuyers get in there, make it real attractive.

We've shown you the charts before. The average homeowner, homebuyer, mortgage holder, will save about $800 on refinancing, for example; over the lifetime of a mortgage, will save thousands of dollars. That's money they'll plow back into New York's economy.

So we will offer these amendments. I will be supporting the bills as they are if the amendments don't succeed. If they succeed, certainly we can come back in a few days and pass them in their amended form. And I do congratulate the Majority for recognizing some of the good ideas that we advanced. Even

though they unanimously, on a party-vote basis, voted them down a couple of months ago, I suspect the result today will be different, as they've incorporated them into their bills.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. Presid ent, I believe I have two amendments at the desk. If we could take them one at a time, waive the reading and let me say a few words about them.

ACTING PRESIDENT MEIER: Senator Stachowski, the amendments are at the desk. The reading of the amendment -- we'll have to take them one at a time. We'll take the first, we'll waive the reading, and you now have an opportunity to explain your amendment.

SENATOR STACHOWSKI: The first amendment that I'm taking up is an amendment that deals with what we refer to as a turnover tax. It's a sales tax on items or services used by the businesses in creating their product or delivering their product.

It's a situation where the New York State businessperson is taxed twice on the delivery of their product. It gives an automatic advantage to out-of-state producers of the same item. And it's something that all economists that specialize in the study of sales tax policy universally agree that it's a bad feature of most sales tax policy and it's something that should be removed.

So that's basically what this tax does. It's an idea that has already caught the interest of the Business Council. As a matter of fact, it's an idea they liked so much that they couldn't understand how they didn't think of it. And we're just happy that we did think of it, and we'd like to move this amendment at this time.

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 MARCELLINO: Party vote in the negative.

ACTING PRESIDENT MEIER: The

Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 33. Party vote.

ACTING PRESIDENT MEIER: The amendment fails.

Senator Stachowski.

SENATOR STACHOWSKI: Maybe I shouldn't be so brief on the next one. It might have a little better chance.

ACTING PRESIDENT MEIER: We could read it, if you like.

SENATOR STACHOWSKI: (Laughing.) No. Again, I'd like to waive the reading and I'd like to say a few words.

ACTING PRESIDENT MEIER: The reading of the amendment is waived, and you're recognized now to explain the amendment.

SENATOR STACHOWSKI: Thank you, Mr. President.

This amendment deals with a 5 percent credit against the cost of energy purchased by farmers in the production of their farm commodities. Obviously, farming is a hands-on, labor-intensive industry. It also

is very affected by the various utility rates and energy rates that they face. And this 5 percent credit would go a great way in helping them out and making them more competitive in the market they face today.

Obviously a similar bill was moved by the Senate Minority in the past. We think it was a great idea then, and we like the idea now, and we move the amendment.

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 MARCELLINO: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 33. Party vote.

ACTING PRESIDENT MEIER: The amendment fails.

Senator Dollinger.

SENATOR DOLLINGER: Excuse me, I

yield to Senator Gentile. Excuse me, Mr. President.

ACTING PRESIDENT MEIER: Senator Gentile.

SENATOR GENTILE: Yes, thank you, Mr. President. I believe there's an amendment at the desk.

ACTING PRESIDENT MEIER: Yes, there is.

SENATOR GENTILE: I'd ask that the reading be waived and you allow me to explain it.

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

SENATOR GENTILE: Thank you, Mr. President.

This amendment would repeal the sales tax on clothing and footwear effective January 1st. As you know, many times on this floor I have advocated for the repeal of the sales tax on clothing and footwear, and this amendment would accomplish that very fact.

We in this state have a good

economy. And we often wonder what will keep this economy moving, what will keep this economy burning and moving as quickly as possible. Well, ladies and gentlemen, my colleagues, this amendment to repeal the sales tax on clothing and footwear is the economic octane that we need to keep this economy moving and growing.

It has been shown by the tax-free weeks and by all research that repealing the sales tax on clothing and footwear results in tremendous increases in economic activity. That tremendous increase in economic activity results in the creation of jobs. And the creation of jobs results in a better and stronger economy.

This is the octane that we need to keep our economy moving. And I am so happy to know and to learn that the New York City Council and Republican Mayor Rudy Giuliani have passed in their budget the repeal of the city sales tax on clothing and footwear effective January -- December 1st, I believe, this year. Certainly -- and that's up to $110, which mimics the state law.

However, I stand shoulder to shoulder with Mayor Giuliani in advocating that we repeal the sales tax on clothing and footwear completely. Our research shows that the difference between -- the tax revenue between having a $110 or a $500 limit or repealing it completely is relatively small. And having a cap on the sales tax -- on the repeal would create large administrative burdens. Whether it be $110 or $500, there still will be a large administrative burden. By eliminating and repealing the sales tax on clothing and shoes completely, we've removed that administrative burden for retailers in this state.

I believe that standing shoulder to shoulder with the Mayor of the City of New York on this issue points out that this is not a partisan issue, this is an issue that is good for our economy, good for our consumers, and good for the state of New York. I believe that the Mayor, in proposing the complete repeal of the sales tax, understands that it will make New York retailers more competitive with out-of-state vendors. It makes

clothing -- that is, a necessity, clothing and footwear -- less burdensome, the buying of those commodities less burdensome on families with fixed incomes.

So -- and the other item I must mention is the fact that with the Internet sales we are now experiencing, the growing sales of clothing and shoes through mail-order and Internet, certain taxes very often cannot be collected on these in-state vendors, which creates a competitive disadvantage for those retailers who have store locations and are competing now with mail-order sales and Internet sales, where collecting of tax is very, very difficult.

We need to level the playing field. We need to do this now. Our economy points in that direction. We need to take the next step and eliminate the sales tax completely. It would be good -- it's the right thing to do for our consumers, it's the right thing to do for our merchants, it's the right thing to do for our economy, it's the right thing to do for the state of New York.

So I applaud the Mayor, I applaud

the New York City Council. And I urge this body to do the very same thing.

Thank you, Mr. President.

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 MARCELLINO: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 34. Party vote.

ACTING PRESIDENT MEIER: The amendment fails.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, I believe there's an amendment at the desk. I'd waive its reading and ask to be heard on the amendment.

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

amendment.

SENATOR DOLLINGER: I greatly appreciate the fact that Senator Stafford has walked into the chamber. Because, Senator, I'm giving you the chance -- this is another black-fly amendment. This is another chance. One of those little ideas that we're sending around and they're buzzing around in the chamber.

And what happens, has happened, it appears, in the last couple of years is that the black flies get swatted down by a denial of the necessary affirmative votes to be an amendment to an appropriation bill or, in this case, a tax bill. But for some reason the black flies still keep coming.

And, you know, there was a black fly out there that was buzzing around, and it was called the earned income tax credit. And it got swatted down a couple of times, but then all of a sudden it somehow found its way onto the Majority side, took a little bite and left a little mark, and, my gosh, all of a sudden the earned income tax credit appears as part of the Majority tax proposal.

And then we did a couple of others. We did the petroleum business tax for the trucking industry. We offered that as an amendment. And it's June, I think the black flies are out -- Senator Stafford can correct me if I'm wrong. But this little black fly buzzed around the state of New York as an idea engendered by Democrats, got swatted down a couple of times, there were a couple of carcasses left on the floor. But sure enough, that black fly eventually found its way over to the other side of the aisle, took a little nick, left a little mark, and, my gosh, now it's in the tax proposal.

Well, here comes another buzzing little black fly. Right here up around the borderline of the Adirondacks, here's another little black fly -- it's been buzzing around on this side of the aisle -- that we're going to send over to the other side and see if it can evade that big flyswatter. This is the marriage penalty deduction. This is the marriage tax.

This is the tax that says if you're single, you get a certain amount of deduction,

and two single people have the same amount of deduction, but if you get married, you lose the benefit of each of you having the single deduction. You get a smaller standard deduction. So in essence, what we do is we take the lives of two people and we say if they get married, they're going to pay a tax penalty. Because the deduction, the standard deduction is worth less to the two of them as a married couple than it is to the two of them as individuals.

If you're all about pro-families - we hear that logic and that discussion on the floor all the time -- the best way to do it is to send a message to young couples and families when they get married that the State of New York will not impose a tax penalty. When they say "I do," it doesn't mean "I do agree to pay more taxes." Let's just let them say "I do" because they love each other, not because I will pay more taxes. That's the way "I do" is now translated from the point of view of our taxing system. Let's make "I do" mean "I do," and let's eliminate the fact that they're going to pay more taxes.

And my only hope is -- I have a feeling Senator Marcellino or someone on the other side of the aisle is standing there poised with that big flyswatter to swat away that annoying little black fly that comes in in June when we do budgets in this state. And I have the feeling that black fly is going to be swatted down and be laying on the ground. But I also have a feeling that at some point, somebody's going to pick up the carcass of that black fly, put it in their pocket, and sure enough, next year, maybe the year following that, when the enlightenment of the black fly has left its mark on the Republican Majority, that they will exhume that little black fly and set it free again to buzz around the state of New York, leaving its impression, and we will eliminate the marriage penalty, the marriage tax penalty, which is unfair and it doesn't conform to reality.

I would strongly suggest that that little black fly be allowed to fly free this year, that it become a part of the tax bill that we're doing. Let's give fairness to families and young couples in New York State.

With that, Mr. President, I would ask that this black fly be set free and that it be a part of the tax package in this bill by approving this amendment. Thank you.

ACTING PRESIDENT MEIER: The question is on the amendment. All those in favor -- I'm sorry, Senator Morahan.

SENATOR MORAHAN: Would the sponsor of the amendment yield?

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

SENATOR DOLLINGER: I do.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Senator, is there a cost factor on this amendment?

SENATOR DOLLINGER: Yes. The cost of eliminating the marriage penalty, creating equality between young couples who are not married and young couples that are, is about $60 million for this current fiscal year. Played out over the course of an entire year, it would be about $180 million.

If you believe in families and

believe that they shouldn't have to pay a tax by the mere fact that they get married, that $180 million is a simple issue of justice and fairness.

SENATOR MORAHAN: Will the Senator yield for another question?

ACTING PRESIDENT MEIER: Senator Dollinger -

SENATOR DOLLINGER: I'd be glad to, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MORAHAN: Yes, Senator, I understand your talk about the flies.

I guess I was here a few moments ago when the Minority Leader spoke to this budget package saying that he had no plans to speak to it because he didn't feel that the budget package that's out here today and yesterday is of any consequence.

Did you hear that, Senator?

SENATOR DOLLINGER: I don't know that that was verbatim what Senator Connor said, but I believe he talked about the fact that this is an evolving process, that this is

not the final budget that will eventually become law in this state, that's correct.

That's why I think we're offering these amendments, in hope that the wisdom of Senator Gentile and Senator Stachowski with respect to these tax cuts will eventually buzz their way over to the other side of the aisle and maybe create some new ideas to be a part of the process.

SENATOR MORAHAN: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Goodman.

SENATOR GOODMAN: Mr. President, I'd just like to invite Senator Dollinger's attention to just a few aspects of his new verbal toy with which he obviously takes great delight in entertaining the chamber.

May I remind you, Senator Dollinger, that the black fly is one of the most pestiferous of all of the members of the insect family, that its bites often become infected and create serious problems with the human body, that they're notable carriers of germs, that they congregate typically in

lavatories, from which you can assume that they do not feast upon things which we would normally regard as appropriate.

In general, I think this imagery is quite unfortunate and does you a disservice in what I presume is a sincere effort to try to attract attention to worthy amendments. But the black fly could not be a more repugnant or preposterous little demonstration of that, and I urge you to reconsider carefully your use of the imagery for future budgetary debates.

Thank you.

ACTING PRESIDENT MEIER: Senator Dollinger, I was about to say "now, who can argue with that," but you're recognized anyway.

SENATOR DOLLINGER: I can't argue with that. I am -- I would only suggest to Senator Goodman that sometimes the bug is - once planted, once transplanted, once given the chance to have an effect, that that little bug can have an impact. That black fly's had an impact -- perhaps an insidious one, but nonetheless, it does leave its mark on people.

And we're simply suggesting that

eliminating the tax penalty for getting married is an appropriate mark that should be left on this tax bill. So it may be somewhat painful, because it comes at the cost of 180 million, but it's the right thing to do.

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 MARCELLINO: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 35. Party vote.

ACTING PRESIDENT MEIER: The amendment fails.

Senator Paterson.

SENATOR PATERSON: Mr. President, I have a -

SENATOR SKELOS: Can I interrupt you one moment for an aside?

ACTING PRESIDENT MEIER: Excuse

me one moment.

Senator Skelos.

SENATOR SKELOS: There will be an immediate meeting of the Rules Committee in the Majority Conference Room.

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

I'm sorry. Senator Paterson, can we hold that for a minute?

Senator Waldon.

SENATOR WALDON: Thank you, Mr. President, and thank you, Senator Paterson, for yielding.

I was called away from the chamber yesterday when we dealt with Calendar 1150 and Calendar 1166. I would like the record to reflect, please, that had I been here I would have voted in the negative.

ACTING PRESIDENT MEIER: The record will so reflect, Senator Waldon.

Senator Seabrook.

SENATOR SEABROOK: Yes, Mr. President. With unanimous consent, I'd like to be recorded in the negative on

Calendar 1215.

ACTING PRESIDENT MEIER: Without objection, Senator Seabrook will be recorded in the negative on Calendar 1215.

Senator Kuhl.

SENATOR KUHL: Mr. President, may I have the unanimous consent to be recorded in the negative on Calendar Number 960.

ACTING PRESIDENT MEIER: Without objection, Senator Kuhl will be recorded in the negative on Calendar Number 960.

Senator Paterson.

SENATOR PATERSON: Yeah. Mr. President, I have an amendment at the desk. I'd like to waive the reading of the amendment and speak on the amendment, please.

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

SENATOR PATERSON: Mr. President, I'm sorry that Senator Dollinger is not here, because I think that he must have learned a lesson from that last amendment by already thinking that the amendment would fail. This

is just metaphysically not a good way to operate in government, particularly when you're in the Senate Minority.

Now, over the last five years, as close as I can calculate, I have lost 84 amendments in a row. However, that hope that springs eternal in the human breast brings me to the amendment I offer today, which I think the Acting Majority Leader, Senator Marcellino, and all the Majority members will certainly concur with.

What we wish to do through this amendment is to remove hundreds of personal accessories from the sales tax, making the sales tax more regressive [sic] and inevitably more fair. Some of the personal items that would be removed from the sales tax -- and I'll look through the list -- might even include insect repellent.

It would be a possibility of removing from the tax personal articles such as bicycle helmets, for instance, smoke detectors, personal flotation devices, and certain personal hygiene items such as soap, deodorant, feminine hygiene products, and

others of the like. There are some medical products that were -- there were some medical products that we've exempted based on some circumstances as to whether or not they would actually be applicable.

But this is a -- an amendment that we proposed last year and was defeated. We're going to bring it back in the hope that perhaps the Majority will see the light now and would like to exempt these personal accessories from the sales tax.

Also the tax that we would have currently for motor vehicle leases would be removed, and we would certainly no longer see the need to have food stamps -- for food stamp products, that they be sorted. We're removing that from the list and, as I said, repealing the leases for automobiles from the tax.

So all in all, these are items that are of great need to all individuals. We think it's very important that they be removed from the sales tax and that it would make it a lot easier for a number of people around the state if they actually do this.

So that is my amendment. I leave

to the Majority the opportunity to rule on it. It would be so much different, so much more interesting if they went along with this amendment. And I leave it in your hands, Mr. President.

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

SENATOR ONORATO: Party vote on the affirmative.

SENATOR MARCELLINO: Party vote, unfortunately, in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 22. Nays, 35. Party vote.

ACTING PRESIDENT MEIER: The amendment fails.

SENATOR MARCELLINO: Read the last section, please.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 162. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 57.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Can we now take up Calendar Number 1216, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar Number 1216.

THE SECRETARY: Calendar Number 1216, by Senator Bruno, Senate Print 5, an act to amend the State Finance Law, in relation to the debt reduction reserve.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MEIER: Senator Marcellino, an explanation -

SENATOR MARCELLINO: Mr. Presid ent, I can give a brief statement on this one. This is the Senate's debt reform proposal which builds off the Governor's proposal to

establish a debt reserve fund and increase the cash or hard-dollar commitment to the capital expenditures by eliminating backdoor borrowing and authorizing voter-approved debt only.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR SMITH: Just a moment.

ACTING PRESIDENT MEIER: Senator Smith.

SENATOR SMITH: Mr. President, would the sponsor -- well, it's not the sponsor. He's on the phone too.

Would the sponsor please yield for a question?

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

SENATOR MARCELLINO: As the surrogate sponsor, I will yield.

SENATOR SMITH: That was what I was looking for, surrogate.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SMITH: In this bill it

says requires not less than 25 percent of the tobacco settlement monies to be deposited into the debt reduction reserve fund. Would it be required that they be used for any particular purpose?

SENATOR STAFFORD: This is a little unfair. I'd basically better earn my money.

SENATOR MARCELLINO: I will yield gratefully to Senator Stafford, our financial expert.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: Senator Smith, you're not being unfair.

SENATOR SMITH: Thank you.

SENATOR STAFFORD: I was.

SENATOR SMITH: Oh, that's okay, you can finish your lunch.

SENATOR ONORATO: We withdraw our question for Senator Marcellino and refer it to Senator Stafford.

SENATOR MARCELLINO: There we go.

SENATOR STAFFORD: This does dedicate up to 25 percent of the state's

portion for deposit in the debt reduction reserve fund.

SENATOR SMITH: Yes, I said that before you came.

And through you, Mr. President, I'm inquiring as to are there any specific purposes for that 25 percent. Have we dedicated it to health, to smoking issues, to children's issues, to whatever?

SENATOR STAFFORD: Well, I of course -- I see exactly what you're asking. And I think this is such a hard call. I certainly respect your concern. And knowing that you're a very knowledgeable, intelligent person, I see exactly what you're -- the point you're making.

SENATOR SMITH: Flattery will get you everywhere.

SENATOR STAFFORD: The point that has to be made here -- and it's very emotional. I will never forget a very good friend of mine in the Assembly. I attempted to sort of make points on this issue, and I've never -- and it wasn't personal, but I've never had anyone come after me the way this

gentleman did. And afterward I complimented him because he felt so strongly about it.

The issue, of course, is do we use some of this money for debt reduction or do we use it all in the lines that reflect what you're suggesting. It's a very, very tough call. I say that the debt with this state - or the debt the state has, I don't think we have the top bond rating. In fact, I'm not even going to say where we are. But I don't want even to say -- I guess there's one. Louisiana, is that lower than us?

And I don't mean to make light of it, because I realize you're talking about a very, very serious issue. But I do think that some of this money -- I do support this amount going for a reduction of the debt.

SENATOR SMITH: Mr. President, would the sponsor yield again?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SMITH: Thank you. I'm not arguing the use of the 25 percent for the debt reduction. However, I'm asking why

wasn't some of this money set aside for young people, to help them with the cessation of smoking, since that is something that has - will create for problems for the state, more health hazards, and the cigarette -- that's why we won the money in the first place.

SENATOR STAFFORD: The remaining 75 percent of what you're asking about, that's now open and being discussed. So that this is good that we're having this discussion, and the decisions will be made on it.

SENATOR SMITH: Yes, I - Mr. President, once again.

ACTING PRESIDENT MEIER: Senator Smith.

SENATOR SMITH: We have set aside an amount for debt reduction which you feel is extremely important. However, since the money came from the bad habit of smoking -- which I did too -

SENATOR STAFFORD: I did too.

SENATOR SMITH: -- don't you think it would have been wiser to take some of that money and put it to what it was that really created the funds?

SENATOR STAFFORD: That of course is being -- that -- Mr. President, that is being discussed at the present time. And the point that the Senator is making is a valid point. And of course I think all of these discussions will be part of the overall decision on exactly how this money is used.

SENATOR SMITH: One last question.

ACTING PRESIDENT MEIER: Senator Stafford, do you yield for one more question?

SENATOR STAFFORD: By all means.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SMITH: Why would we take money and utilize it for something totally unrelated when we could use it for something that it is related to?

SENATOR STAFFORD: That's a valid question. And of course this goes back to the initial -- not the initial, but the question that I responded to when I first came back in. It's a very tough call.

But again, five years ago, as I mentioned, with a $5 billion deficit, with a

bond rating in this country that is worse than every state other than one, I suggest that we are doing something for the overall quality of life if we do something about this debt.

It is serious. The state has many responsibilities. As I said yesterday, some of the responsibilities we have in some quarters sometimes are not particularly popular. I understand that, and I'm one who defends some of these areas.

But I do think that it makes sense for us to take a portion of this and use it for reducing the debt, which will directly and indirectly do the things that need to be done to make this state a state that we're -- well, yes, we're proud of, but to make this a state where we will be able to provide the services, meet our responsibilities, and have a quality of life here that will be the type of life that we would want our young people, our older people, people like you and I, all who live in this state, have.

SENATOR SMITH: Thank you very much, Senator Stafford.

I believe that the young people

should be provided with the opportunity not to start smoking, and therefore they would be alive to enjoy all of those things that you talk about and the quality of life for the residents of the state.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you very much, Mr. President. Would the sponsor yield to a couple of questions?

SENATOR STAFFORD: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I agree that reform is needed. But I think that there are some areas of reform that are missing from this proposal. And the first is, how do you propose that debt management should be managed in your proposal?

SENATOR STAFFORD: What was your question? I didn't hear it.

SENATOR DUANE: There's no management reform of the debt in terms of who it is, the people who actually would be managing -

SENATOR STAFFORD: Well, there will be, because we're going -- we're making a change here. And other than general obligations, we're doing away with backdoor borrowing. And if we borrow, the people are going to have to approve it.

SENATOR DUANE: No, I understand that that's what the proposal says. But I mean in terms of who it is that actually makes decisions about how the fund should be used and how the debt service is being managed.

SENATOR STAFFORD: Well, of course, first, it will be the Legislature and the Governor and would follow the capital plan of the state.

And I would point out, Mr. President, again, your point is -- the issue you're raising or the area you're raising, it certainly deserves discussion. When you have to put these proposals up to the people, really they know, you know, how it's going to be spent. And that, in effect, builds in accountability.

SENATOR DUANE: Thank you. Mr. President, through you.

I'm actually trying to get at a different point, and that is should there not be a board that would oversee how the funds are being allocated and whether or not there be -

SENATOR STAFFORD: Mr. President, I see the point now.

You know, after 34 years here, when anyone mentions a board or a commission or a task force or whatever to me, a red light goes on. We elect the Governor, we elect the Legislature, and they have to respond every - well, one every four years and the Legislature every two years. And to build in more bureaucracy and to build in more whatever, as far as I'm concerned, I would look to that with a rather jaundiced eye.

I find that, if anything, I would like to eliminate some of these boards we have, eliminate some of these commissions we have, eliminate some of the bureaucracy in government. And again, in this day and age, when it's sort of the thing to do to beat up on government -- and we bring it upon ourselves. I'm pointing right at myself. I

used to be able to say, you know, "I wasn't here when that happened." But, you know, when you've been here whatever number of years, you have to say, "Well, I was here."

On the other hand, there's an accountability. And I have faith in the people. And people have to go out there who, like you and I, decide we want to be involved. And we have to answer to the people. And if anything, I think some of these boards and commissions and whatever we create to insulate ourselves, I think, if anything, are the back -- or put us backward, as far as I'm concerned.

And I think it should be us, the people making the decision and us, who are responsible. I think I make my point.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR STAFFORD: By all means.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: With all due

respect, I would -- I do want to make a couple of points in response to that response as I ask my next question.

And I would be remiss if I didn't mention that I think in this session I've voted more often than my esteemed colleague against setting up commissions and boards and advisory committees, because I do think that we are charged with making some of the tough decisions. Yet I've seen on the floor of this body a lot of side boards being set up to study things and deferring decision-making. And I agree that that is not a good way for government to respond, and that's why you - often it's not a reflex action, but I'm actually thinking before I cast my "no" votes on some of these matters.

However, in this case I would respectfully disagree, because I do believe that by putting elected representatives on a board to manage our debt would be good public policy and in fact does have the responsibility that again rests in elected officials.

And so my question would be what is

the objection to, for instance, having the Majority Leaders of the houses and, for that matter, the Minority Leaders of the houses, as well as the Governor and the Comptroller, or some combination thereof, serve on a board to oversee the prudent use of the resources and the long-term debt of the State of New York?

SENATOR STAFFORD: My objection is if those officials are doing their job, which I suggest they are, it is not necessary, it is just excess baggage, and it's foolish.

SENATOR DUANE: If I may have another question or two, through you, Mr. President.

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

SENATOR STAFFORD: I just wanted to make my point, Senator.

ACTING PRESIDENT MEIER: He yields.

SENATOR DUANE: I'm going to make a similar point, so maybe I'll leave it - this one is a more open-ended question, again, and you can make your point, which -- so we can both hear each other's points.

The same could be said of the Public Authorities Control Board, I think, in terms of how responsibility could be expanded. I've been recently involved in a bipartisan effort having to do with the budget in general, I think reflecting the frustration from the left, from the right, from the center in terms of how the state budget is or is not being accomplished this year. And I know there is as loud a complaint in the Assembly as there is in the Senate in terms of how it is that the Minorities get to be involved.

I'm wondering, then, again, if you would have an objection to adding the Minority voices from the Legislative bodies onto the Authorities Control Board as well.

SENATOR STAFFORD: I think, again -- let me just generally -- generally make this point. You see, if we do that - excuse me. If we do that, we're just continually enlarging the board, and -- you know, I think it would make it more cumbersome -- I feel that, again, the Control Board, right now I think -- of course I'm on it, you know -- I think is doing its job and

it is a result of the people who are elected.

And I think that really we have to be very careful if we just enlarge something and then in effect end up really setting us backward.

SENATOR DUANE: Mr. President, if the sponsor would continue to yield.

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

SENATOR STAFFORD: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I want to put this in the context of sharing, and maybe that might be a better word to use for how it is that we could have our voices heard -- a sharing of responsibility.

But beyond that, I did want to raise another issue which would not cause the creation of any new board or expand the number of board members of something, and that is the issue of involving the public in a public review of how it is that debt is being used in the State of New York. As it is now, there isn't really a formal public review or public

comment that's required. And even though it's something that's always a possibility, it's not something which happens.

So I'm wondering, because it wouldn't create a new body or a new board or add any new members to a board, if you would have -- if the sponsor would have an objection to having a public review, including a public comment process.

SENATOR STAFFORD: Well, again, I think this is very -- a very healthy discussion. But once again, we're building more mechanics into government there.

And the interesting thing is I, for one, feel that the public does comment. And I know you have a good feel for your district. And of course when we go back in our areas, we know how people feel. I don't know whether we need to add to this. I think -- of course, we're authorizing voter approval for debt only. I see your point.

But you know what we have to be very careful of too? And this is interesting. You have to be very, very careful how you point this out. When I first got here, I was

for initiative, referendum and recall. And I still support it. Some of my colleagues and other friends of mine and probably not friends of mine don't agree with me on the issue. But here's the point, though. And I'm -- it's amazing what you learn, learn through the years.

We do have a system where we're elected. And we have to take the responsibility for our decisions. Now, with debt, there will be voter approval. But I don't think we should try to shield, either, and have more mechanics built into decision-making. We make our decisions, and of course then we're responsible for them and have to answer for them.

SENATOR DUANE: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: I'm of several minds about this. But I do think, first and foremost, that it can never hurt to have more public review and public comment. And my experience has been that I often learn a great

deal from people both who are experts in a field and people who aren't experts in a field in terms of how it is that we should exercise our financial and fiduciary responsibilities in the State of New York.

I certainly think that there's no downside to involving the public more than we already do, that there's not a downside to encouraging public participation. And I think potentially there's a very positive impact that that can be. And even if we set up such a system for public comment and public review, even if nobody came -- which I don't think would be the case -- but there still would be no harm and no great expense in trying to make that -- trying to encourage the public to come and have their voices be heard.

I also think that when we term what we're doing in terms of the state's debt issues, that when we call it reform, that we should look at reform in the totality of what that means. And that also includes how it is that decisions are really being made and, even after decisions are being made, whether mandates are being followed.

And that's why I've -- I ask questions about how is it that a board -- or how it is that a board should be able to oversee. I don't think that that would be taking power away from elected officials. In fact, if anything, I think it puts even deeper responsibility on their shoulders to make sure that the State of New York is acting in a prudent method.

Each of us, yes, are held accountable by our constituents, and then our leaders in these bodies are also held accountable by us. And I think that that system would work very well in making sure that the New York State's finances are administered in the most prudent way possible.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: I want to speak on one particular aspect of this bill, and that is the spending of the tobacco settlement monies.

A poll was recently done for the American Cancer Society that showed that out

of -- 6 out of every 10 New Yorkers favor spending a substantial portion of the state's income from the tobacco settlement on programs to reduce smoking. Actually, it's 63 percent of New Yorkers said they wanted to spend more than 20 to 25 percent of the money on these kind of programs. After all, the lawsuit was about stopping kids from smoking and undoing the health damage done by the cigarette companies to the many adults of our state.

I have before me figures, actually dollars per capita that are being spent for tobacco prevention programs in other states. The Executive Budget had recommended that we spend, per capita, 36 cents for tobacco prevention in New York State. This meshes with -- or doesn't mesh with almost $11 per capita in Massachusetts, $6½ per capita in Arizona, $6 per capita in Wisconsin, $4 in Montana, the same in Maryland, the same in California -- over $4 -- almost the same in Florida. And what are we talking about in our state? We're talking about 36 cents.

I think it's an embarrassment. I think this money was given to us to try and

create a healthier state, both for kids and adults. And I'm strongly urging all of us to put the money where the money was intended, for tobacco prevention, a minimum of one-quarter of the tobacco settlement monies.

Thank you.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: Thank you, Mr. President. Will Senator Stafford yield?

Senator Stafford, would you yield?

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

SENATOR STAFFORD: Yes.

SENATOR ONORATO: Senator Stafford, we're dedicating quite a large sum of money from the tobacco settlement -

SENATOR STAFFORD: Start again, please.

SENATOR ONORATO: We're dedicating quite a large amount of money from the tobacco settlement. Now, to my knowledge there has been no settlement as yet with the tobacco funding as to how much we're going to

get and when we're going to get it. It reminds me of the horse player who has an "if" bet: I'm betting $5 on Sea Biscuit, and if he wins, put $10 on Twenty Grand.

I think that's what we're doing here. We're putting "if" money -- instead of using money that we currently have in the surplus -- depending on whose figure you're using, we either have a $2 billion or a $4 billion surplus. And to dedicate part of the tobacco settlement, which is pending, for non-health-related reasons doesn't sit well with the people of the state of New York.

The fund was created because it created hardships and ill health throughout the state. And to have us react -- on the very first instance when the money is at hand, to spend it on other uses, I'd like an explanation as to why we're putting it first for that purpose.

SENATOR STAFFORD: Well, I discussed that with -- Mr. President, I discussed that with Mr. -- or, excuse me, with Senator Smith. And I would suggest to you that great minds can differ.

SENATOR ONORATO: Obviously, we have already differed. No question about it.

SENATOR STAFFORD: And I appropriate my remarks that I made earlier. It was the exact same issue.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: That's all right. I just want to make a statement on the bill, if I may.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: Thank you. And I appreciate the sponsor's courtesy.

I've listened with interest to the debate over this and the other budget bills, and I realize that the language is all the language I want to hear, the language of economic growth, the language of reducing the state debt. The difficulty that I have -- and I'm unable to support this measure -- is that

I don't really think we have, over the last five years or six years, been delivering on our rhetoric in the state government. I think that the facts, the economic facts, do not support many of the arguments that have been made that the state is turning around and we're doing things and we're moving forward. And I don't think this legislation moves us forward either.

I'm disappointed by the fact that the New York State has lagged the rest of the country in our efforts to reduce unemployment. I find it astonishing that the Governor claims to have turned the state around when we still have an unemployment rate significantly higher than the rest of the Northeast region and in the United States as a whole. And I think that the truth of the matter is that we don't have an economic policy in this state that is working, and that efforts to put aside funds that should be used to deal with long-term issues, like health care costs and like children and smoking, just to pay for our own bad conduct, which we continue by way of cutting taxes when we don't have the revenues

to support the tax cuts and borrowing when we don't have the ability to pay off the debt, that is not the kind of economic policy I want to see in this state.

That is not the kind of economic policy that will grow the jobs we need in the 21st century. We have to be, in a global economy, competitive not just with New Jersey, a state which is beating us economically, or Connecticut, a state which is beating us economically, but with Germany, with Taiwan, with the rest of the world. And I don't see that in any of these proposals. And I'm very concerned about the notion that as a matter of political cover we can set aside funds that are needed for long-term needs in an effort to patch over the short-term economic policy disaster that I believe we're facing in this state.

So I am voting no on this. And I think this is a concern that rides through many of the bills we've seen so far today. The rhetoric is there, but I'd like to see more of the substance. Because I don't want to be back here in three years or four years,

once we've spent all the extra money we had due to these windfalls and we're looking at huge deficits, our debt is still high, and our unemployment rate is higher still than it is today.

Thank you.

SENATOR STAFFORD: Mr. President.

ACTING PRESIDENT MEIER: Senator Stafford.

SENATOR STAFFORD: The Senator has pricked me. I tried to be short with Senator Onorato, which I shouldn't have been. But you have proceeded now to get me on my feet.

SENATOR SCHNEIDERMAN: Well, the black flies, Senator Stafford.

SENATOR STAFFORD: I should correct the dates of those black flies, too.

But I should -- it's my responsibility to stand up and to emphasize the point I made with Senator Smith. And we discussed this, and she made the point exactly that you two have made -- very well, I might add.

Let me share this with you. I too

know what it's like -- or all of you do, but I was here when this state was going entirely in the wrong direction. And, Senator, I would share with you it is my opinion that we're not going to compete globally the way we should, we're not going to compete nationally the way we should with a bond rating with only Louisiana worse than us.

And one of the first things they look at on Wall Street -- and by the way, I'm not sure Wall Street is always right. On the other hand, it's the real world. They look at the bond rating, and that does nothing but cause us problems and does nothing but put us down. I would suggest that it's certainly supportable, I support it, I think it makes all the sense in the world to take some of the money that you're questioning, a reasonable amount -- I think this is reasonable -- and apply it to the debt of the State of New York.

Because, my friends, I saw this state when it was going down. I think we're going in the right direction. Rather than losing 500,000 jobs, we've gained a couple of hundred thousand jobs, or 250,000 jobs.

Rather than manufacturing, rather than business leaving, today business is coming to New York. And I see that right in my own district. And, Mr. President, I'm one who lives in a district that has had problems, and I will take you and show you poverty, as bad as it gets anywhere, and I will take you where there is a need for jobs. But it is improving, and it's going in the right direction. Five years ago, it wasn't going in the right direction. Five years ago, we were going down the drain.

One of the things we can do here, and we're doing it, is applying money to the debt of the State of New York. I say it's a move in the right direction for the health of the State of New York and for the health of the individuals in the State of New York. So I feel I should say that, because we obviously have a discussion here where we're all entitled to our points of view. But I think this is a very valid measure, and I think it should be supported.

SENATOR SCHNEIDERMAN: Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you.

I appreciate the sponsor's comments, and I completely agree with the objective. I think reducing the debt of the State of New York should be our goal. I think we should be working harder on that. My comments were really meant to reflect my view that the way to really reduce debt is to have a long-term economic growth policy that will develop the jobs in the private sector we need.

And in my view, frankly, I think that the current administration and the administration before it, although of different party lines, have similar failings. And I look forward to the day when I talk to my friends on Wall Street, because this is - you know, you talk about Wall Street, I spent the better part of my career as a lawyer defending Wall Street firms. I assure you that they share this view, but they do not believe that short -- no economic analyst believes that short-term set-asides of funds

is the way you meet the challenge.

We have to meet the challenge by developing the private-sector jobs, and sometimes that requires investment in our infrastructure, investment in our human infrastructure. And I think that things like the public health of our citizens are as important an investment as any set-aside for debt reduction.

And I urge that we take a more complete view of the issue, and I look forward in the years to come to actually making progress on that very valid concern.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I rise just -- I wasn't going to speak on this bill, but the colloquy between Senator Schneiderman and Senator Stafford caused me to pause for a second. It seems to me that there's a way to solve our problems, Mr. President, with respect to borrowing, and we don't need a Constitutional amendment or anything else to do it.

What we need to do is go to that fiscally conservative institution that bails out countries that borrow too much money. It's called the International Monetary Fund. We're a debtor state. We owe the City of New York a billion dollars in back education claims. We've got a debt load that's massive. We've used backdoor borrowing and every trick, including the sale of the prisons, which was authorized by the Senate Majority in this house. We've used every possible trick we can to continue to borrow. We are a state that really should be the founding member of Borrowers Anonymous, because we're addicted to borrowing.

What would the International Monetary Fund tell the State of New York if it were a country, a freestanding country? We have an economy that's bigger than the entire gross national product of all but about twenty nations. So what would they come to us and say? They'd say three things: Stop borrowing money today. Don't borrow any more money. Two, pay cash. Use your available cash to pay for expenses. And, number three, they'd say

do it now.

This proposal from the Senate Majority does not one of those three things. First of all, it says we're not going to really stop borrowing through the back door till the year 2003, 2004. In fact, we really won't stop doing it until 2008, nine years from now. So we're not doing it now, we're doing it nine years from now.

Two, they say pay cash, use your available cash. This bill says, oh, no, no, we're not going to use our available cash, we're going to take the "if" money, the "if-come" money that Senator Onorato talked about, and we're going to use that to pay down our debt. Maybe if we get the money from the tobacco settlement, then we'll pay down our debt. The IMF would say: Can't do that, can't do that, that's one of those debtor nation ruses that doesn't stand up to the economic test. Let's use good, old-fashioned, conservative Wall Street-based principles: Use your cash, take it out of your treasury. Don't rely on the if-come of tobacco money.

And the last thing they'd tell you

is to stop borrowing. I will bet -- I will take a bet with anybody on that side of the chamber, on this side of the chamber, $10 says that there will be more backdoor borrowing in this budget than there was in last year's budget, and we will continue to borrow through the back door because we're already so far in debt, we will continue to borrow through the back door because, heaven forbid, if we don't borrow through the back door, we might have to raise taxes to pay for our ongoing expenses. I will predict that the ratio of backdoor borrowing in this bill, in this final budget, will be greater than it was the year before.

So the IMF would say stop borrowing, pay cash, do it now. If we don't stop borrowing, we continue to borrow, we don't pay cash, we pay if-come tobacco money, we don't do it now, we do it a decade from now. And this is what they call debt reform? I would suggest to everybody in this chamber, if this is going to be debt reform, we should all stand up and say, as they do at every one of those Anonymous meetings, whether it's Alcohol Anonymous or Narcotics Anonymous, "My

name is the State of New York. I'm here today because I can't stop borrowing, and I want all of you to help me." I would suggest we all ought to repeat that litany every time we sit down to do a budget that is loaded with more backdoor borrowing.

Let's start Borrowers Anonymous right now, and let's do what the International Monetary Fund would do. Let's do it now, no more backdoor borrowing in this budget. Let's pay cash out of the treasury and not use the if-come tobacco money, which my colleagues have said should be used for something else. And let's do it today, make it effective today.

I'm going to vote against this. This is not really debt reform. We're not going to cease our addiction to debt by doing this, I guarantee it.

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: Those recorded in the negative on Calendar 1216 are Senators Connor, Dollinger, Duane, Gentile, Markowitz, Montgomery, Onorato, Paterson, Rosado, Sampson, Schneiderman, Seabrook, Smith, and Stachowski. Ayes, 43. Nays, 14.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. Presid ent, can we now take up Calendar Number 1217.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1217.

THE SECRETARY: Calendar Number 1217, by Senator Bruno, Senate Print 4, Concurrent Resolution of the Senate and Assembly Proposing Amendments to Article 7 of the Constitution.

SENATOR PATERSON: Explanation.

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

SENATOR STAFFORD: Mr. President, I would guess -- but of course I've been here long enough, you never know exactly what

people's responses will be. On the other hand, I think this certainly is a move in the right direction. And this amendment eliminates backdoor borrowing. And there will be no new authorizations by the Legislature after January 1, 2002, and no new issuances on such authorization after January 1, 2004.

During the transition to the elimination of backdoor borrowing which I just referred to, debt outstanding would be subject to a declining cap as a percentage of personal income, from 5.3 percent to 4.8 percent over three years, beginning in state fiscal year 2001 and 2002. No new legislatively authorized debt to replace backdoor borrowing. Only voter-approved general obligation debt can be issued. It does allow multiple general obligation bond issues on the ballot, and all debt issuance will be for capital projects only.

And I think this is something we can be proud of, and I think it's something we can support.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: I don't know whether Senator Stafford would like to comment on this or not, but I agree with him completely. I just wondered why we couldn't do this today, immediately. Certainly as a Constitutional amendment it will require a public referendum. But I just wondered why these dates couldn't have been moved up to the earliest possible time, assuming that the public passes a referendum, which I would suggest that the public would.

I think this is a good idea whose time came a long time ago, but we continued to borrow. At one point in the mid-'90s I remember we had borrowed $6.6 billion through this kind of backdoor system, borrowing from the agencies. And my only regret is that we don't expedite the process right here and have this take effect in an even shorter period of time.

ACTING PRESIDENT MEIER: Senator

Stafford.

SENATOR STAFFORD: I certainly compliment Senator Paterson for his reaction, and I knew my good friend would be very sensible and show his intellect, his sensitivity and sensibleness.

I would only say, as I earlier here defended the Legislature and the entire - it's not that bad, is it? -- and defended those in government, because I think we do have a good system, I am very aware that at times we have to harness ourselves and we have to put in ironclad checks and balances. And the way to do this is to amend the Constitution. And that way we have those ironclad harnesses, if you will, if you would like to call it that.

I think it is necessary. I think the way to do it is amending the Constitution, and that way there'll never be any question. And as the tide ebbs and flows twice in 24 hours and as we move up, down, over, yonder and on, we will not be able to be pressured into making decisions that in effect would not be prudent.

So I think this is the route to go. I think the Constitutional amendment will have its first passage if this passes in the Assembly -- which I hope it will -- it will be voted upon, and hopefully the voters will approve it.

And as you get older it's amazing, Senator, how quick this will happen.

SENATOR MARCELLINO: Call the roll, please.

ACTING PRESIDENT MEIER: On the resolution. The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 3. Senators Dollinger, Duane, and Schneiderman recorded in the negative.

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we call the controversial calendar in regular order.

ACTING PRESIDENT MEIER: The Secretary will return to the controversial calendar and read in regular order.

THE SECRETARY: Calendar Number 658, by Senator Saland, Senate Print 3529, an act to amend the Insurance Law and the General Obligations Law, in relation to the use of lands.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Excuse me, Mr. President.

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

SENATOR SALAND: Thank you, Mr. President.

Mr. President, this bill is a bill which is intended to encourage owners of certain properties, land and also water areas, to make such areas available to the public for recreational activities instead of posting such areas and prohibiting their use. And one of the purposes of this bill is to accomplish that by limiting their potential liability exposure.

In addition, the bill would amend the Insurance Law to require the Insurance

Department to study ways to control the cost of property liability coverage for owners who would so permit the public use of their property.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Saland would yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator Saland, whenever there are these types of liability cases, as you know -- and we've talked about this before -- the standard that's used by a court or by a jury to determine whether or not in this case a landowner should have been able to foresee the liability, the hazardous condition, is based on what's known as a reasonable test: would the reasonable man or woman be able to determine that this was something that needed

some kind of remediation.

And what this legislation does, in effect, in some parts is take this away. It almost creates an assumption of the risk on the part of the individual who is going onto the land. And most often the individuals who might do that, particularly in these types of circumstances, would be children. So what we have is a possibility of substantial injury to children, and no real recourse because this has barred any legal action.

And I think -- my question to you is, what remedy would the injured party have in a situation such as this when we've taken the legal remedy away from them?

SENATOR SALAND: Mr. President, first, I'm not sure I would conclude as readily as Senator Paterson does that somehow or other we are disproportionately putting children at risk or, for that matter, disproportionately putting anybody at risk.

What this bill does is in effect draws upon the existing General Obligations Law, Section 9103, which currently enumerates a dozen to 15 particular categories of

activities which this body and this state has seen in this its wisdom to appropriately eliminate liability with respect thereto.

What this bill does, it doesn't change any of the standards that are contained in that already existing legislation. It basically says we're going to expand this liability protection to any recreational use. The language which exists in the statute currently, which would be subsection 2 - would now be changed to subsection 3 -- talks about what isn't limited. It talks about willful or malicious failure to guard or to warn about a dangerous situation, talks about saying if you're going to charge a fee to let somebody use your premises for recreational purposes, you will no longer be free from liability. It also goes on to say that for injuries caused by acts of persons to whom permission to pursue the use of the premises or for other persons to whom you owe a duty to keep your premises safe or to warn of the danger would similarly not permit you to escape liability. That is the existing law.

We're doing nothing to change the

existing law. We are merely making uniform the liability limitation with respect to recreational use. And the purpose, quite obviously, is consistent with things such as the Hudson Valley Greenway, which purports to provide greater access to land, greater access to the river, greater recreational use, something which I would assume we would all agree is a worthwhile goal and objective.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Saland would continue to yield.

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, what is the incentive for the landowner to cure any possible dangerous condition on the property, based on the legislation that we're considering now?

SENATOR SALAND: Your question somehow or other seems to imply that landowners are going to go out of their way to

harbor dangerous conditions that will threaten injury to those who might use their premises. The fact of the matter is -- and I daresay there is nothing to indicate that in any of the enumerated categories to which this particular section of the law currently applies, whether it's canoeing, boating, trapping, hiking, cross-country skiing, tobogganing, sledding, and whatever speleological activities are -- I'd assume it's spelunking -- horseback riding, bicycle riding, hang-gliding, motorized vehicle operations for recreational purposes, snowmobile operation, cutting or gathering of wood for noncommercial purposes, or training of dogs -- I'm not aware that there has been a groundswell of conditions that have been harbored that would endanger anybody engaging in those activities.

Because if there has been, as far as I know, it hasn't been reported anywhere. And I would reasonably assume that there would be somebody who would have presented, either in memo form or in some other datalike fashion, evidence to show that this existing

law is harmful to people who seek to take advantage of it.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Senator Saland.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: I don't think that there's any intent on the part of landowners not to conform with what would be their duties as citizens. Nor do I think that landowners are careless and without regard for what might happen to trespassers on the particular property.

All we are saying is that these types of situations are ones in which we would not like to see a bar established in any form because it takes away the test of the individual situation.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 658 are Senators Connor, Dollinger, Duane, Onorato, Paterson, Sampson, and Senator Montgomery. Ayes, 50. Nays, 7.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Can we go on, Mr. President.

ACTING PRESIDENT MEIER: The Secretary will continue to read in regular order.

THE SECRETARY: Calendar Number 779, by Senator Kuhl, Senate Print 2953, an act to amend the Tax Law, in relation to the tax on sales and the compensating use tax.

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, 56. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1223, by Senator LaValle, Senate Print 1969, an act to amend the Public Health Law, in relation to authorizing and directing the Commissioner of Health.

SENATOR DUANE: Explanation.

ACTING PRESIDENT MEIER: Senator LaValle, an explanation has been requested by Senator Duane.

SENATOR LAVALLE: Thank you, Mr. President.

This legislation passed last year and is the Number 2 bill for the volunteer firefighters on Long Island. This bill would direct -- authorize and direct the Commissioner of Health to promulgate rules and regulations that will require a medical facility to give notice of the presence of

communicable disease or other health risks to emergency-respond personnel who have had certain contact with a person who is a carrier of a communicable disease or who possesses a possible health risk to such personnel.

There have been a number of incidents and concerns by medical-respond individuals who handle the ambulance service and the volunteer fire department. And also on Long Island we have -- and throughout the state, by the way -- we have ambulance districts. And so this would merely indicate whether an individual who the emergency-respond person is coming into contact with has a communicable disease and whether they need to seek medical attention.

ACTING PRESIDENT MEIER: Senator Waldon.

SENATOR WALDON: Thank you very much, Mr. President. Please suffer an interruption.

I was called out of the chamber on other Senate business when the house dealt with Calendar 658. I respectfully request unanimous consent to be recorded in the

negative on 658.

ACTING PRESIDENT MEIER: Without objection, Senator Waldon will be recorded in the negative on 658.

Senator Duane.

SENATOR DUANE: Thank you very much, Mr. President. I was hoping the sponsor would yield to some questions.

SENATOR LAVALLE: Sure.

ACTING PRESIDENT MEIER: Senator LaValle -- the sponsor yields.

SENATOR DUANE: I first would like to know -- the sponsor mentioned that there were incidents dealing with this issue. And I was wondering if he could tell me what those incidents are.

SENATOR LAVALLE: Simply that a person with the emergency-respond personnel came to the scene of an accident and a person was obviously bleeding, and they had some concern whether that individual had a communicable disease that they should worry about.

So it's basically a daily occurrence where someone is responding to a

scene and someone is bleeding or they see some other signs of other communicable diseases, whether they believe a person has tuberculosis or hepatitis or other kinds of diseases.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: So it could be said that really probably the majority of cases involving someone going to the scene of an accident probably does either potentially or in fact does entail that there would - could be blood or -- involved in it, in the incident?

SENATOR LAVALLE: Well, obviously a large percentage of accidents do have a victim that -- an individual who is bleeding, yes.

SENATOR DUANE: And then for the incidents where there isn't any blood, then you're less concerned about whether or not

there would be any -

SENATOR LAVALLE: No, no, no, I'm not. I've specifically indicated other categories of things that are communicable diseases, such as hepatitis, tuberculosis.

And these are trained people, and they obviously recognize certain symptoms or certain things that might lead them to draw a conclusion that an individual had hepatitis or tuberculosis.

SENATOR DUANE: If the sponsor would continue to yield.

SENATOR LAVALLE: Yes, I will.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering if, when the sponsor of this legislation goes to the dentist, whether the dentist takes universal precautions when performing a dental examination on the sponsor.

SENATOR LAVALLE: I think today most dentists take certain requirements where they are working with various gloves, have a mask that they use. Not only on myself, but I believe that's a standard procedure in the

dental office that I frequent.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: Is the sponsor aware that in fact dentists -- indeed, all health-care personnel -- are always supposed to use universal precautions against the spread of infectious diseases?

SENATOR LAVALLE: Yes.

SENATOR DUANE: And is the sponsor aware of what entails significant risk in terms of medical procedures -- or not medical procedures, virtually -- what constitutes significant risk in terms of the spread of infectious disease?

SENATOR LAVALLE: Well, I think, Senator, we're talking about a communicable diseases here in the -- in this legislation. There are other categories in the legislation. I think I had mentioned -

SENATOR DUANE: I'll pare it down. Hepatitis and HIV.

SENATOR LAVALLE: There is a concern, Senator, on the part of volunteer -

SENATOR DUANE: Concerns are not facts, Senator. I'm hoping you could stick with the facts.

SENATOR LAVALLE: No, that's why this legislation is before us, Senator. That's why we as legislators file and bring to this forum legislative proposals, because they come from constituencies that have various concerns.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: Does the sponsor perhaps see that education is as important a role that we have in addition to responding to concerns which are not based in fact?

SENATOR LAVALLE: Senator Duane,

the education is always an important component. But what we are seeking to do here in this legislation really parallels federal regulations that allow -- and I will just read here. The new regulations which took effect in 1994 would -

SENATOR DUANE: Mr. President, regulations -- I'm unclear what these regulations are for.

SENATOR LAVALLE: I'm going to, if you'll give me a chance, Senator, I'll complete -- the new regulations which took effect in '94, I believe, would require medical facilities to determine whether an emergency-respond employee might have been exposed to specific infectious diseases that can be transmitted through the air or through contact with blood or other bodily fluids.

And of course -- and I know your concerns, so we might as well go right -- and of course on that list is -- the HIV virus is on that list, Senator.

So what we are doing here in New York is asking that the State Health Commissioner really promulgate similar

legislation that covers the emergency-respond people. We delineate that. We also have in the legislation a provision that deals with the liability issue, should such notification not be given, and say that a person would be liable only for grossly negligent behavior in not giving notification.

So what we're doing here is we're not -- we're not doing something so bold and we're not shocking the consciousness of anyone here, because we have already had federal regulatory rules that have been on the books since April of 1994.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: In fact, the legislation before us does not specifically - and I'll just read a small part of it, although the legislation is like this throughout -- it doesn't talk about dangerous

contact involving blood or anything like that. It talks about casual contact; for instance, transporting a person.

How is transporting a person in any way a danger of contacting infectious disease?

SENATOR LAVALLE: Senator, if they're bleeding, I think -

SENATOR DUANE: No, it does not say bleeding.

SENATOR LAVALLE: But, Senator, we delineate here certain -- if you go to lines 11 to 14, I think it begins to spell out some things.

SENATOR DUANE: It says that the person could potentially be carrying those, but if -

SENATOR LAVALLE: Well, would you read that, Senator? Would you read that section, please?

SENATOR DUANE: Participating -

SENATOR LAVALLE: Would you read it for the record, please?

SENATOR DUANE: Yeah, I'll read it. "Is a carrier of a communicable disease designated in the sanitary code, including but

not limited to HIV, immunodeficiency syndrome, hepatitis B, and pulmonary tuberculosis."

SENATOR LAVALLE: Or -- or -

SENATOR DUANE: However, it doesn't say the person has to be bleeding -

SENATOR LAVALLE: Or otherwise -

ACTING PRESIDENT MEIER: Senators, could I ask you both to address your comments through the Chair, please?

SENATOR DUANE: Mr. Chair, it does not say that that person needs to be bleeding. That person could have a nonbleeding condition, and if they need to be helped or carried, the implication is that the medical person needs to know. But beyond that -

ACTING PRESIDENT MEIER: Senator Duane, are you on the bill now or are you addressing a question to the sponsor?

SENATOR DUANE: I am all over this bill, Mr. President.

(Laughter.)

ACTING PRESIDENT MEIER: Well, I'm -- that's very interesting. But I need to know for my own purposes. Are you addressing

a question to the sponsor or are you on -

SENATOR DUANE: Does the sponsor believe that if there is no fluid -

ACTING PRESIDENT MEIER: Wait a minute. Just a moment, Senator Duane. We'll get this done in proper order.

Senator LaValle, do you yield for another question?

SENATOR LAVALLE: I'll try.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: Does the sponsor believe that if there is no blood or anything like that, that there's a need to know whether the person is carrying HIV or, for that matter, hepatitis?

SENATOR LAVALLE: Senator Duane, what I was starting to say, that the legislation reads on, "or otherwise poses a possible health risk to such personnel."

Now, there can be a situation -

SENATOR DUANE: I'm sorry, does not or does?

ACTING PRESIDENT MEIER: Senator, you have to -

SENATOR DUANE: I just didn't hear what he said.

SENATOR LAVALLE: Senator, you have the bill. We can read along together. In my former life, when I was a teacher, we - so if you pick the bill up, we can read it together.

SENATOR DUANE: I just -- I didn't hear what you said, was the problem.

SENATOR LAVALLE: Oh, I'm sorry. It goes on to say or -- you read the A section. And it says "or otherwise poses a possible health risk to such personnel."

So that we have -- we could have a situation where a person is maybe not bleeding at the time. There can be other criteria, and I think I indicated that, which response people are trained to do, that it could be a situation where a person has a concern on hepatitis B or tuberculosis or that the person begins to bleed after he left the ambulance, where it was an internal bleeding and then begins to bleed externally.

So we don't know. And that's why a person would like some sort of notification.

And what I have said on this is that this is not something that is so bold, because federal regulations have already set the stage for this.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Though I don't have the document in front of me, I believe that the federal regulations are talking about when there is the possibility of a significant risk having occurred, which would be a blood-to-blood situation. Or, as defined in the New York -- and I will -- this is a question, but I need to get facts on so that the question can be appropriately framed. The New York State Health Code does define risk of transmitting, for instance, HIV as sexual intercourse, sharing of needles and other paraphernalia, breastfeeding or giving birth, transfusion or transplantation of blood, et

cetera.

And my question is if a -- an EMS technician is transporting a person and not having sex with them or breastfeeding them or shooting up with them or giving a blood transplant, what is the -- or if there isn't another blood-to-blood contact, in fact what is the risk of the transmission of HIV in such a situation?

SENATOR LAVALLE: Senator, as you well know, we're talking about the Sanitary Code here. To the best of my knowledge, we're not talking about -- we're talking about an emergency-respond person, so we're not talking about someone in a sexual-relationship situation here.

But what about the situation, Senator, and I say this rhetorically, where I as an emergency-respond person working his - would be administering some sort of needle and, in doing so, slip and then go into myself. Would that -

SENATOR DUANE: In fact, that's -- Mr. President, through you, if I may answer.

ACTING PRESIDENT MEIER: Go ahead. You have the floor, Senator.

SENATOR DUANE: Yes. Although one would hope that that person, as they should in all cases -- like your dentist, but as well an EMS technician -- should be wearing gloves and should be careful about drawing blood from anyone, not just a person who has HIV disease.

And if I may, Mr. President, supposing today, because I didn't get to eat lunch, I felt a little faint and in fact fainted here and EMS came in to revive me. What business of them is it whether I'm HIV-positive or not, Mr. Senator? Why would they need to know that if the condition which has occurred that's caused them to come and help me has nothing to do with blood? What business is it of them?

I would hope they would come wearing their gloves anyway, no matter who it is. But why do they need to know about my HIV status? What business is it of theirs if it's a non-body-fluid-related thing that's happening? If I've just fainted because I

didn't have lunch and they come in to help me, why do they need to know that about me? And why would you want them to take the time to call my primary health carrier to find out whether I am HIV-positive? And would you want them to call yours if you fainted to just double-check to make sure that you are not?

SENATOR LAVALLE: Senator, let me answer that -

ACTING PRESIDENT MEIER: Senato rs, could I ask both of you please to address the Chair? I understand this is an important bill, and there are strongly-held beliefs. But the rules call for members to address the Chair, please.

Senator LaValle.

SENATOR LAVALLE: Mr. President, certainly a needle can go through rubber gloves. I think we're talking about something in the real world here.

I think, Senator, that people today, whether it's you or any member in this chamber who would pass out and might need mouth-to-mouth resuscitation or whatever, I think this is something important, that people

should have information if I or anyone else is HIV-positive. I think that's important for emergency-response personnel to have that information.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: How did you know, Mr. President?

ACTING PRESIDENT MEIER: Well, you rose, sir, and that's an indication you wanted the floor.

Do you wish to ask the Senator to yield or to speak on the bill?

SENATOR DUANE: I still believe that -- that it is more important that universal precautions be taken at all times, whether it's by EMS personnel or by a dental hygienist or in fact anyone that's providing health care. In fact, that is the most important role that we could play regarding the terrible tragedy of the spread of HIV and the newer scourge of hepatitis C, let alone the older ones of A and B.

ACTING PRESIDENT MEIER: Excuse me one moment, Senator Duane.

Senator Paterson, why do you rise?

SENATOR PATERSON: Oh, I'm sorry. I thought Senator Duane was finished. I had some questions for Senator LaValle. I'm sorry.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: I am going to raise another issue in addition to the issue of the nonmedical necessity of this piece of legislation, and that has to do with the issue of confidentiality for those people whose HIV status may be exposed in this manner.

I want to raise one of the sadly many times that this sort of tragic occurrence has come up, and that is having to do with a routine car accident in Washington, D.C., which turned into a demonstration of intolerance and disrespect for human life.

Tyra Hunter was a passenger in a car when it was broadsided by another car at a four-way stop. When fire department personnel arrived at the scene, Tyra and the driver had been pulled from the car and were lying on the ground. As a crowd gathered, a male

firefighter began treating Tyra for her injuries -- that is, until he cut open her pants leg and noticed that she had male genitalia. In fact, Tyra was a male-to-female transsexual. At that point, the firefighter stood up and backed away from Tyra, who was semiconscious and gasping for breath.

The story actually goes on to talk about the despicable things which that firefighter then said about this person who was injured in a car accident, and goes on to talk about how because the EMS personnel assumed that this person was HIV-positive and in fact did not treat her until other passersby came by and insisted that they take her to the hospital, which they did, and she died because they would not treat her on the spot.

So my point has to do with, first of all, assumptions about people and who they are and whether or not they may or may not be HIV-positive and whether or not that impacts on their ability to get needed care. My point also relates to whether or not people may not actually get the treatment that they need.

And finally, I think the point needs to be made about discrimination for people who may be or who are perceived to be HIV-positive. And I'm wondering what in this legislation speaks to the need for education about how it is that HIV is or is not transmitted and whether or not this bill is trying to address whether or not if a person is positive or not, that they would get needed medical treatment.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: That's a question.

ACTING PRESIDENT MEIER: Well, Senator, you've got to clue me in on this. Because I asked if you were on the bill or if you were asking the Senator to yield, and I didn't receive a response.

SENATOR DUANE: I am asking the Senator to yield.

ACTING PRESIDENT MEIER: Senator LaValle, do you yield?

SENATOR LAVALLE: Yes, I do.

Senator Duane, this bill is -- is

not an education bill. This bill comes out of, again, a constituency, volunteer firemen personnel who either perceive or feel that there is a problem.

This legislation, however, would avoid the situation that you talked about, about emergency-respond individuals either being squeamish or discriminatory in whether they will give to the full professionalism that they have in treating a person and getting them to a medical facility.

Because what they're saying here in this legislation, what I believe it says very specifically, is all they want is notification. They don't want the person's name. All they want to be notified is whether there is a situation that they need to concern themselves about.

Now, in suburban and rural areas, to this point we do not have paid personnel. They are volunteers. They do this because they want to serve their community. This bill helps them serve their community and humanity and serves all people regardless of what their situation is and what their -- whether they

have a communicable disease or not. And it simply says to that person that whatever the situation was, whether there's blood or no blood, there is a problem there that you need to know about. You don't need to know about the person's name, but you need to know that there was a situation.

Now, Senator, I'm representing in this bill a constituency. And I appreciate and fully understand, as do the members in this chamber, your situation and your constituency that you represent. And there are two different points of view. It doesn't mean I do not appreciate your point of view, but in this legislation I am incorporating provisions that I feel will protect the public by having response personnel do their job that they're trained for, to get people to a medical facility and at the same time protect themselves and their family and have people continue to volunteer.

And that's a major issue for us in the suburban and rural communities, that we have volunteers doing this work. There are many issues, Senator, on this topic, and you

have expressed it and I've heard you in committees and on this floor. And many of these issues will be dealt with in separate pieces of legislation that deal with education, that deal with discrimination and other issues that you are far more knowledgeable on than I. But in this bill my mission is, as I have articulated, to represent the emergency-respond personnel, Senator.

SENATOR DUANE: Through you, Mr. President.

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

The Senator yields.

SENATOR LAVALLE: I will yield, but I don't know how much more I could say on this, Senator.

SENATOR DUANE: I just want to get a clarification. As I read the bill, it talks about transporting a person, an EMS or a volunteer firefighter transporting someone. As I read the bill, it does not say anything about needle sticks or blood-to-blood or I would even yield to mouth-to-mouth, of which

there are already things in place where you could, if you were concerned -- although that's not a part of this legislation, as I read it -- where you could find out about your exposure to HIV.

Is that not correct, that this does not speak to needle stick, blood-to-blood, or even mouth-to-mouth resuscitation, but only transporting a patient?

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: It does. And again, I will say it's the B section, "otherwise poses a possible health risk to such personnel." It's a broad thing that can include many things, Senator Duane.

SENATOR DUANE: Yes, that is correct, it is very, very broad. Which is one of the problems.

But my final question would be -

ACTING PRESIDENT MEIER: Wait, wait.

Senator LaValle, do you yield to another question?

SENATOR LAVALLE: Yes, I will.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: How would an EMS or a firefighter treat a person if they were transporting them? What would be different?

SENATOR LAVALLE: Senator, nothing would be different. Because this - because this bill -

SENATOR DUANE: Nothing would be different.

SENATOR LAVALLE: Wait a minute. This bill -

SENATOR DUANE: Thank you.

SENATOR LAVALLE: This bill deals with, again, as I say, the notification. All right?

But you must understand, Senator, in the real world that people have concerns today. And that's why we have this bill before us, because through notification a person can be satisfied that they were involved in a situation that had no health risk or they were involved in a situation that had a health risk.

To some individuals, this

legislation makes no difference. To others - and obviously, I've mentioned that this bill is a major initiative for the Long Island volunteer fire and respond personnel. So they obviously have some concerns about this area, and that's why the legislation is before us.

SENATOR DUANE: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: Thank you.

Sadly, although the people that are so much for this bill forgot to share their reasons for being for this bill with the rest of us so that we could answer their points and perhaps educate them on how it is that communicable diseases are actually spread, by the sponsor's own admission, nothing would change in terms of how it is that a person would be transported. Nothing would change.

The only thing that would change is that we would be playing into discrimination and intolerance, which already occurs every day in our state towards people who have HIV and people who are perceived to have HIV.

Nothing would be different about how it is that those people would be transported, except perhaps they would now run the risk of not being transported and not getting the attention that they need, not getting the medical attention that they need. That's the only thing that would be different.

Although maybe the other thing that would be different is from then on their confidentiality about their HIV status would forever after be compromised. That might be the only other difference. But it would make no difference in the danger that's posed to a person that's doing the transporting, particularly and especially if there is no body fluids being shared or anything like that. The only thing that could happen is that a person like me or like you would not get the attention as quickly -- or if at all -- as needed, and confidentiality may be breached.

I urge my colleagues to vote no on this. Thank you.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If Senator LaValle would yield for a few questions.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: Senator LaValle? Senator LaValle yields.

SENATOR PATERSON: Senator LaValle, Senator Duane made a suggestion and I thought it was a very good suggestion. I wanted to see if I might be able to interest you in the suggestion.

He talked about the need for education on this subject. When I think back 15 years ago -- and at the time I would do arraignments when I was in the Queens District Attorney's office. And when the first AIDS patients, who happened in these cases to be defendants, were brought out, it was almost comical the way the court officers would form a circle around the individual but, when the individual moved toward anyone in the circle, they'd move away from them. And of course as the prosecutor, this didn't make me feel very much protected in the courtroom, because no one wanted to even touch the defendant.

Now, that's what we knew about AIDS in 1984. And you can certainly understand that. You can certainly understand this legislation coming at that particular time.

But now the Center for Disease Control and many other health-care agencies around the country are very familiar and can actually pinpoint what they consider to be the percentage at risk people are from this type of exposure. And even though people have said that they've gotten the HIV virus from blood-to-blood exchanges, say, during recreational activities -- playing basketball or something -- I believe that one of the agencies approximated the possibility of getting it under those conditions as 27 million to 1.

So when we look at your legislation -- and I think what you were saying before is that the ambulances and a lot of the services are manned by volunteers. So what I think what you were trying to establish in your legislation was a comfort level for these individuals, that they would just feel more comfortable if they knew of these

situations, even if the procedures remained exactly the same.

If that's the case -- and I think that reflects pretty much what you said - then I wouldn't understand why you wouldn't include the educational component that Senator Duane was pleading for, especially when you mentioned in your remarks initially that this was the second priority of the volunteer firefighters and EMS workers. Well, if this was their second priority, then I would suggest to you, Senator, that their priorities are somewhat out of order, because they see this as a risk far beyond what it actually is.

And so therefore my question is, would you reconsider the whole notion of education for these individuals so that they might not be acting on their impulses and their fears and anxieties but would be acting on real facts, as Senator Duane tried to present?

SENATOR LAVALLE: Mr. President.

ACTING PRESIDENT MEIER: Senator LaValle.

SENATOR LAVALLE: I sometimes

forget that those of us in the suburban and rural areas that deal with volunteer firemen and those that man the ambulances, and I - I'm debating two people who come from the city of New York -- that we have EMTs that are required by our law to be on the ambulance - and in some cases, advanced, AEMT, advanced emergency medical technicians, by either -- by regulation, these workers take hours and hours each year, courses and education on situations that they deal with.

So they are already, Senator -- I don't have the syllabus, but let me just say, to be more exacting, it's my belief that they are receiving education in how to handle these situations, to, as Senator Duane said, to provide a safe environment as is done in the dentist's office, is what he talked about. So they're receiving that training.

Now, I thought Senator Duane was talking about education in a broader sense that deals with the broader society and how we should be viewing various individuals with HIV and other communicable diseases in our society. So I think that would need more

exploration. I -- I don't know -- what I'm saying is I believe the EMTs already receive education.

As a matter of fact, Senator, in some cases -- because we're dealing with volunteers, remember -- the EMTs have said they don't even have the time already to take the courses that are required by regulation for them to maintain their certification as an EMT.

I hope I answered your question, Senator.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. On the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: I would hope that Senator LaValle will take another look at the education component that Senator Duane was suggesting, because I think it's vitally important, even in a volunteer capacity -- and perhaps we didn't take a moment out to extend our deepest appreciation to those people who

are volunteers.

And Senator LaValle is right, I live in New York City. When something happens, the people who come there are usually paid -- except for the legislators. And the reality is that we might not completely understand the feelings and the anxieties that might run through some of the people who volunteer in these situations.

But I also might suggest, as an entire body, that we might all not really understand what it's like to either be an individual who is in the position of having one of these diseases or to be perceived to be suffering from one of them, which is an unfortunately dangerous situation that occurs every day -- the perception of people based on certain characteristics about the individuals that lead us to think that it's all right to make certain presumptions about them.

We have to understand that whether it's out of volunteerism or professionally, that when acting as a medical person, providing medical assistance, that there are rules that individuals must adhere to to

establish some kind of order, some kind of code to the procedure. And in those situations, if the volunteer or whoever it is is following those rules, they shouldn't encumber any greater problem based on whatever is the medical condition of the victim.

In the case that we're talking about, this piece of legislation, I favor the value that the individual be protected. Our society, one of the greatest societies in the world, was founded on the basis of individualism, where we respect the individual rights of people, where we do not subject those rights to unnecessary ridicule, publication, or in any way further notice than is absolutely necessary.

Senator Duane conceded that there are times that you would have to know specifically what the condition is. But what he was largely objecting to was that in situations where the mere transportation - someone sprains their ankle playing basketball and now they're on their way to the hospital and are transferred, say, from the hospital to some other place, maybe to get further x-rays

or something, and now all their medical history can come out because of all this relatively minor injury, when they have never been bleeding and are never in any way exposing anyone to the malady that they suffer from.

So I would just propose, Mr. President, that we all take a moment to understand each other's issues, and that this bill perhaps be recrafted in a way so that the specific association between illness and the possibility of spread of the disease are noted by the individuals who are providing assistance. Because I think that if they knew what little risk there is in the overwhelming number of cases, it would certainly diminish the concerns that they have.

My concern is that people who in this society who have already been discriminated against, people who have already been ridiculed, then inadvertently have their conditions publicized, are then further ridiculed and possibly denied the equal amount of care that they would have received had everybody just not known about the condition

in the first place.

And I say this with the deepest respect and appreciation for those individuals who on their own time take time out to volunteer to help their towns and their villages run in a better fashion.

ACTING PRESIDENT MEIER: Senator Nanula.

SENATOR NANULA: Thank you, Mr. President.

Very quickly, would the sponsor yield just for a couple of quick questions?

THE SECRETARY: Senator LaValle, do you yield?

SENATOR LAVALLE: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR NANULA: Thank you. Thank you, Mr. President.

Just for purposes of clarification for me, with respect to the protocol here, in asking this question I want to use an example, maybe to make it a little bit easier. A person is in an accident, they're lying roadside, the emergency medical technicians

pull up. And at that point, Senator, what exactly is the protocol? What determines whether or not this process is going to be used, this notification process is going to be enacted? It is completely discretionary with respect to those EMTs at the site?

SENATOR LAVALLE: One of the questions that Senator Duane asked is what would take place, what would be any different. He used specifically the situation of transporting. You now have broadened that a little bit.

Nothing different would take place. But it is after, at a point after the person is transported, in the medical facility, that we find that there is some sort of problem. It is at that point that the emergency personnel, or shortly thereafter, are notified that there is a problem that they had need to take care of.

This is a notification bill. This doesn't say that you shouldn't be taking care of a person. As a matter of fact, in answer to Senator Duane, Senator Nanula, I said this bill would actually give people the peace of

mind to move forward and do the things that they need to do, that they're trained to do, with a clearer mind because they will know at some point in time, at least, that they're notified. Today, it is possible that they would not receive notification.

And again, I just want to - Senator Paterson's point -- say, as I have to Senator Duane, that we are not releasing people's names. We're saying there is a problem and you need to focus on that problem. It could be a whole host of things. I mean, I understand where this debate is narrowly focused on HIV. But there are other - hepatitis B, tuberculosis, cholera. There is a whole list that -- it could be measles, malaria, a whole list of communicable diseases.

ACTING PRESIDENT MEIER: Senator Nanula.

SENATOR NANULA: Through you, again, Mr. President.

SENATOR LAVALLE: I yield.

SENATOR NANULA: Senator LaValle, my focus is with respect to the treatment.

And getting back to my last question -- and maybe I missed your answer -- again, in terms of the protocol, at what point, if this bill were to become law, would that EMT be able to say, under law, "Time out, I want to go" -- or "I want now to have notification from" - whether -- I would presume it's an HMO or - or some other source, as to what the status of this person's medical condition is, whether or not they have one of these diseases? Again, I'm trying to understand -

SENATOR LAVALLE: Senator, I thought I was very precise, but I will say it again. There is no point where someone says "Time out."

SENATOR NANULA: Again, through you, Mr. President.

Conceivably, could an EMT do that? Under this bill, could -

SENATOR LAVALLE: No.

SENATOR NANULA: They could not.

SENATOR LAVALLE: No. This is a -- Mr. President, this is a notification bill, Senator Nanula.

SENATOR NANULA: Again, through

you, Mr. President.

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

SENATOR LAVALLE: Yes.

SENATOR NANULA: And if I'm being a little dense here, Senator, I apologize.

In terms of the actual notification, what you're then saying is that treatment cannot be at all impeded, that this bill, if it were to become law, would simply allow that EMT, if they so requested, to find out the medical status of the person they treated after -- you're saying then after?

SENATOR LAVALLE: That is correct, Senator.

SENATOR NANULA: But it would not at all -- again, through you, Mr. President.

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

SENATOR LAVALLE: Yes.

SENATOR NANULA: But under no circumstances -- as the bill is written, it could not impede that individual from receiving service at any point through the process of their treatment, from the time at

which the EMTs arrive to the time at which that individual arrives at a medical facility for treatment?

SENATOR LAVALLE: Senator, I'm going to -

SENATOR NANULA: Or, I'm sorry, if I could clarify that, Mr. President.

If the notification was requested -- I shouldn't say service denied, but service delayed -- could that service potentially be delayed as a result of a request being made for the status of this person's condition or health?

SENATOR LAVALLE: Mr. President, Senator Nanula, as you read the bill you will see there is nothing, nothing in this bill that either by its words or where you would even perceive would deny medical attention.

And the bill talks about -- and we're going to read the notification provision. "Notification by a medical facility to emergency-respond personnel pursuant to the provisions of this section shall include but not be limited to immediate phone notification by the administrator of the

facility."

So that means, Senator, the person's in the facility. They have been treated on the site, transported, they're at the facility. Now it has been determined that there is some sort of problem.

And now I'm reading the notification provision: "but not limited to immediate telephone notification by the administrator of the facility to the individual designated by such emergency-response personnel to receive notification, together with written notification of such communicable disease within 48 hours after the rendering of medical assistance by the emergency-response personnel."

Those are the exact words, to answer your question, that show this is a process after the person is treated.

SENATOR NANULA: Thank you. Thank you, Senator. Thank you, Mr. President.

Just very quickly, on the bill.

ACTING PRESIDENT MEIER: Senator Nanula, on the bill.

SENATOR NANULA: Thank you.

There seems, at least for me, to be a disconnection here in terms of the importance of making this bill a law in terms of any kind of protection for those EMT personnel who are volunteers and their level of confidence or of good faith that this is somehow going to create a more safe environment for them on the job.

In terms of what the Senator just stated, what we're looking at here is now allowing these EMTs -- they have a 48-hour period after the service has been provided to find out whether or not they treated somebody who was HIV-positive. That wouldn't undo any potential risk they may have incurred while they were providing that treatment.

So, for me, it sounds quite frankly as though, in all due respect to Senator LaValle, that this is a feel-good bill. This is a bill that can now entitle these EMTs to somehow -- not in a real way, but maybe in some kind of psychological way to feel better that they're somehow safer on the job where, in effect, they have no better knowledge of

what the condition of that individual is while they're treating them under this bill as they would in the current state -- or, I should say, better stated, without this bill.

And at the same time, as has been stated by my colleagues here, there is a risk on the other side of the equation. There is a risk of disclosure with respect to those individuals who have been treated. And we have on this floor, at many times in the past, stood and discussed how important the confidential nature is of diseases -- in particular, HIV -- with respect to discrimination in this society.

So on the one hand, there's no real, tangible benefit that these EMTs are able to take away from these bill. And on the other hand, there's tremendous risk from a societal perspective in terms of those people whose names may be released as a result of this feel-good legislation.

I think it's, quite frankly, not a responsible bill for that reason, and I agree with Senator Duane and agree that we should urge -- I want to personally, I should say,

urge everyone here to vote against this bill for that very reason. I don't see where there's real merit, where there's any kind of additional protection. It's nothing more than giving a certain population of people a psychological benefit at the risk of another population.

Thank you.

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

SENATOR DUANE: Slow roll call.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: A slow roll call has been requested. Are there five members standing? There are five members.

The Secretary will ring the bills and start to read the roll slowly.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

THE SECRETARY: Senator Balboni.

ACTING PRESIDENT MEIER: Senator

Balboni, to explain his vote.

SENATOR BALBONI: Thank you, Mr. President. I've never had the opportunity to rise on this issue, and I do so today for the specific purpose of just pointing out one or two things.

The first is Senator Ken LaValle should be applauded for having the political courage to take up this issue. This is not exactly politically correct. But then again, so should Senator Duane, for bringing in other information that is beneficial to all of us to see this from a different perspective. And so I thank you for that. It's an important issue that should be discussed from those perspectives.

But I'm going to support this bill, and I'll tell you why. Publication, disclosure, these are concepts that have been developed in our Civil Rights Law, these are concepts that we have -- but unfortunately, in the course of life, they are not reality. Go to an emergency room in this state and see what happens when an HIV patient is being treated. Walk into an OR, operating room,

when there's an open-heart surgery going on, and see who knows if the patient is HIV-positive. They all know. So if you're worried about the health community or about people who are not a physician knowing about this information and disclosure, it occurs every day.

In addition to which, there was debate focused on HIV, but the debate really focuses on communicable diseases and giving the men and women the ability to look at their own lives during the course of treatment. What Ken LaValle said about volunteer firefighters and ambulance workers is correct. It's hard to get these people to volunteer. It's enormous hours, enormous amounts of time. And just because there are members of this chamber who don't believe that HIV is much of a risk, I assure you all that will be little comfort to that individual who receives a needle stick while transporting an HIV-positive individual or receive -- doesn't wear a mask while treating someone who has tuberculosis.

And then the question was asked

what difference would it make, what different behavior would occur for the EMT who was informed of this after transporting the individual. You know what the response is, Mr. President? The response is that if they received a needle stick during that transportation because they were working on that patient, then they'd go and they'd get checked. Then perhaps they'd receive -- if they did incur the disease, they'd receive the medicines that perhaps could keep them alive. That's the difference in behavior.

That's why this issue is important, and that's why I'm going to vote in favor of it, Mr. President. Thank you.

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

Continue to call the roll slowly.

THE SECRETARY: Senator Bonacic.

SENATOR BONACIC: Yes.

ACTING PRESIDENT MEIER: Senator Breslin, excused.

Senator Bruno.

(Senator Bruno was recorded as voting in the affirmative.)

THE SECRETARY: Senator Connor.

(Senator Connor was recorded as voting in the negative.)

THE SECRETARY: Senator DeFrancisco.

SENATOR DeFRANCISCO: Yes.

THE SECRETARY: Senator Dollinger.

SENATOR DOLLINGER: To explain my vote, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: There is a very simple answer to this problem. And one of the smartest things we've done in public health in this state is get three words out, three words that solve this problem and to the best of my knowledge have been followed by everybody in the public health area: Use universal precautions.

Whether it's somebody on the floor that you don't know anything about or somebody in an automobile accident, we don't need to ask whether they've got tuberculosis or HIV. We don't need to know if they've got any

health problems. The answer is the way to protect yourself if you're a health-care worker, whether you're the EMT greeting them at the first moment or whether you're in the operating room or whether you're in the hospital, is use universal precautions.

The best I can tell, the fear that Senator LaValle's bill is designed to protect has never happened in this state. And all this bill does is this says there's something to be afraid of. I would suggest this bill will not change people's behavior, because if they're using the right behavior in the first place and using universal precautions, the problem that Senator LaValle's bill is designed to address will never come about. And in fact -- again, I stand to be corrected by Senator LaValle if I'm wrong -- in fact has never come about in this state, because the word has gotten out to people in the EMT business, as it has to nurses and people in the hospitals: Use universal precautions. Take care of yourself. Make sure you use them, and you will diminish if not completely eliminate the risk of transmission of any

disease.

That's the way to do this. This bill I think is well-intentioned but I think is ignoring the critical solution of this problem. Three words, use universal precautions -- and we will never need this bill.

I vote no.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Duane.

SENATOR DUANE: Mr. President, if I may explain my vote.

ACTING PRESIDENT MEIER: Senator Duane, to explain his vote.

SENATOR DUANE: I do want to add, because I was a little bit disturbed about one comment, that I know many, many people with AIDS and HIV that live throughout New York State, including in Senator LaValle's district, and in my own district there are many, many firefighters who live, many EMTs who live. I think we were talking about this.

It's not my constituency versus someone else's constituency. I think what we're talking about is the state of New York and how it is we can best protect the public health of the people in the state of New York.

I -- though I think my views were fairly broadly expressed, but I do want to remind people this is expressing a problem which is not, and that there are enormous risks to passing this legislation both from a public-health point of view and from protecting the ability of all New Yorkers to get prompt and good health care.

And I vote no. Thank you.

ACTING PRESIDENT MEIER: Senator Duane will be recorded in the negative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Farley.

(No response.)

THE SECRETARY: Senator Fuschillo.

SENATOR FUSCHILLO: Aye.

THE SECRETARY: Senator Gentile.

SENATOR GENTILE: Yes.

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Hannon.

SENATOR HANNON: Yes.

THE SECRETARY: Senator Hevesi.

(No response.)

THE SECRETARY: Senator Hoffmann.

SENATOR HOFFMANN: Yes.

THE SECRETARY: Senator Johnson.

(No response.)

THE SECRETARY: Senator Kruger.

(No response.)

THE SECRETARY: Senator Kuhl.

SENATOR KUHL: Aye.

THE SECRETARY: Senator Lachman.

(No response.)

THE SECRETARY: Senator Lack.

SENATOR LACK: Aye.

THE SECRETARY: Senator Larkin.

(No response.)

THE SECRETARY: Senator LaValle.

SENATOR LAVALLE: To explain my vote.

ACTING PRESIDENT MEIER: Senator LaValle, to explain his vote.

SENATOR LAVALLE: Mr. President, we've read most sections of the bill - there's really not that much to this bill - in answer to specific questions. And I think that there are broader concerns that are being raised that really do not concern this bill.

I would think that any person, regardless of whether they use -- and I think Senator Dollinger is right, are using universal precautions. But as I indicated, in giving an injection to someone it can slip, go through the rubber gloves. I think that person, after the treatment, after the treatment, would want to know for themselves and their family if they needed to do something to deal with a health problem.

This bill I think goes a long way in dealing with the situations. And I wish I had actual cases that I could talk about. But in a state as large as the state of New York, to think that there has not been several incidents where people had a problem and were not notified I think is to put our heads in

the sand.

And I would ask that my colleagues look at this bill for what it is, a notification bill that will allow our emergency-respond personnel, whether they be in the city of New York, in rural, in suburban communities throughout the state, to at least know if there is a problem that they must deal with that problem.

I vote aye, Mr. President.

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

Continue to call the roll.

THE SECRETARY: Senator Leibell.

SENATOR LEIBELL: Mr. President.

ACTING PRESIDENT MEIER: Senator Leibell, to explain his vote.

SENATOR LEIBELL: First, I want to compliment Senator LaValle for this legislation. I've worked for many years with the emergency services personnel in the Hudson Valley, and I know what a difficult job it is they have. Maybe at times it even seems to be a thankless one. Whether it's unique to this age or not, there are certainly many

communicable diseases that are out there that can make their jobs all the more dangerous and cause concern not only for these dedicated people but also for their families.

I think this legislation, quite frankly, is the bare minimum that we can do for these good people to say we understand what they do, how difficult it is, at times how dangerous. Hopefully by passage of this legislation we will let them know this and we'll give their families a greater sense of certainty with respect to any problem diseases or communicable diseases that they may confront.

I'm very pleased to be one of the sponsors on Senator LaValle's legislation, and I'm very pleased to support this bill.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Libous.

SENATOR LIBOUS: Yes.

THE SECRETARY: Senator Maltese.

SENATOR MALTESE: Aye.

THE SECRETARY: Senator Marcellino.

ACTING PRESIDENT MEIER: Senator Marcellino, to explain his vote.

SENATOR MARCELLINO: Yes, Mr. President. I too would like to rise and, in explaining my vote, thank my colleague, Senator LaValle, for bringing up this particular piece of legislation. I'd also like to thank Senator Duane for expressing his point of view with vigor, with passion, and with obvious concern.

We talk about protecting the rights of the individual. That certainly is paramount in everything we do here. The question comes down to which individual in this case -- the individual who is in need of health services or the individual who is volunteering to provide those health services? Whose rights are paramount? Whose concerns are greater?

I suggest to you, as an honorary volunteer fireman in my community, knowing full well that our voluntary fire departments on Long Island and throughout the state are

having difficulty getting volunteers -- young men, young women are fearful of volunteering, especially for the EMT services. There is a fear and a concern. That's why this legislation is being proposed. We're trying to find a way to ease their concerns.

Is education important? Absolutely. Should an educational component be part of the training of these individuals? Absolutely. Nobody argues that point. But to characterize this bill as merely a feel-good bill and dismiss it in that way I think is wrong. It's wrong. It just takes away the concerns that these people have.

You want to protect the rights of individuals? Who doesn't? I'll go back to my earlier question. Which individual's rights are paramount? Which individual's rights deserve to be protected? I suggest everybody's rights have to be protected, the volunteer as well as the person in need of medical attention. If we don't have volunteers, we don't have appropriate medical attention in the suburbs. It will cost us lives if fear drives people away from

volunteering.

Mr. President, this is a bill whose time has come, it's a bill that's important. I vote aye and urge all my colleagues to vote likewise.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Marchi.

SENATOR MARCHI: Aye.

THE SECRETARY: Senator Markowitz.

SENATOR MARKOWITZ: No.

THE SECRETARY: Senator Maziarz.

SENATOR MAZIARZ: Yes.

THE SECRETARY: Senator McGee.

SENATOR McGEE: Yes.

THE SECRETARY: Senator Meier.

SENATOR MEIER: Yes.

THE SECRETARY: Senator Mendez.

SENATOR MENDEZ: No.

THE SECRETARY: Senator Montgomery.

ACTING PRESIDENT MEIER: Senator Montgomery, to explain her vote.

SENATOR MONTGOMERY: Yes, Mr. President, to briefly explain my vote.

Certainly I can understand the concern that Senator LaValle has. But I think it is totally unconscionable that we in this state would have any health professional working in any capacity without a complete and full understanding of all of the implications of communicable diseases, no matter what they are.

So it seems to me that that would be the first thing that we would want to do, is to mandate that every health professional have this information, have an understanding, be educated and prepared in how to protect themselves no matter where they are in the health care arena.

So since that's not what we're discussing, I'm going to vote no on this legislation.

ACTING PRESIDENT MEIER: Senator Montgomery will be recorded in the negative.

The Secretary will continue to call

the roll.

THE SECRETARY: Senator Morahan.

ACTING PRESIDENT MEIER: Senator Morahan, to explain his vote.

SENATOR MORAHAN: Mr. President, I rise in support of the bill.

In the recent past, within two years in Rockland County we lost three volunteers who were actively involved in saving the lives of others. Those volunteers were prepared at that time to give their lives for their fellow residents and neighbors. And I think we owe them something that would offer them some protection in the event of an accident.

You can train people -- doctors are trained, nurses are trained. They know all about the risks that are involved in rendering services to those who are ill or in an accident. But notwithstanding the training, accidents do occur.

And I think it would be remiss of me, in recognition of those three volunteers who died in Rockland County within two years, three separate instances, that if they were

rendering a service that was to protect others and were willing to give their lives, then I think we owe them a debt and I think we owe them -- unpaid people, by the way, and volunteers -- and we owe them some obligation.

And I believe this is a move in the right direction. I support the bill. I vote yes, Mr. President.

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

The Secretary will continue to call the roll.

THE SECRETARY: Senator Nanula.

SENATOR NANULA: No.

THE SECRETARY: Senator Nozzolio.

(No response.)

THE SECRETARY: Senator Onorato.

SENATOR ONORATO: Aye.

THE SECRETARY: Senator Oppenheimer.

SENATOR OPPENHEIMER: To explain my vote, briefly.

ACTING PRESIDENT MEIER: Senator Oppenheimer, to explain her vote.

SENATOR OPPENHEIMER: I'm going

to be voting in favor of this bill, even though I recognize some of its failings and even though I think education is the best road to safety and prevention.

But we have run into, in our community, the same thing that was stressed by Senator Marcellino, in that we have people who are very concerned and therefore are hesitant to come forth and volunteer in our EMS. It is very important to us; we have no paid personnel. And I think if it is just to alleviate some fears, I -- I know the importance of education. My husband has hepatitis C, which he got from transfusions, multiple transfusions about 40 years ago. And I know the precautions we all have to take in our family. So definitely education is the route.

But in the meantime, in order to encourage people to come forward and continue to volunteer, which is so -- we are so reliant on, I'm going to vote in favor.

ACTING PRESIDENT MEIER: Senator Oppenheimer will be voted in the affirmative.

The Secretary will continue to call

the roll.

THE SECRETARY: Senator Padavan.

ACTING PRESIDENT MEIER: Senator Padavan, to explain his vote.

SENATOR PADAVAN: Mr. President, I rise to explain my vote.

First, let me compliment Senator LaValle for having presented this bill to us. Over a period of time I've had discussions with the chairman of our Health Committee about this issue in a broader sense.

My son, those of you who may be aware of it, is an emergency medicine physician. He works in an emergency ward in a rather large hospital in the metropolitan area. He also trains -- part of his responsibility -- EMTs from time to time who take courses that he gives.

He has told me that one of the problems that they are faced with is lack of awareness in every instance when something occurs as to the condition that that patient or potential patient has. And he has brought that home very directly on more than one occasion when he personally was stuck with a

needle, and then everybody had to scurry around and find out what that particular patient may or may not have had in terms of a communicable disease.

There should be total disclosure to all health-care providers when they have been put in harm's way in the course of their dedicated responsibility. And this bill goes in that direction. We should go even beyond this. There should be no reason, when a nurse or a physician or a technician is a recipient of an errant needle, or in an emergency ward where blood is flying in all different directions, it's spattered -- or whatever the case may be -- that that person shouldn't have the opportunity of knowing, even if it's after the fact, what they've been exposed to.

I might also add that Senator LaValle refers to suburban areas with volunteer ambulance corps. Well, in my district in the city of New York, I have eight volunteer ambulance corps. And as Senator Marcellino indicated, the problem is getting people to volunteer their time. And many of them are young people, and their parents are

cautioning them, don't get involved in this.

And so whatever way we can deal with this issue in an enlightened and very straightforward manner, I believe we should. I vote aye.

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

The Secretary will continue to call the roll slowly.

THE SECRETARY: Senator Paterson.

ACTING PRESIDENT MEIER: Senator Paterson, to explain his vote.

SENATOR PATERSON: Mr. President, very briefly.

I was very pleased to hear Senator Marcellino and Senator Balboni appreciating the work of their colleagues Senator Duane and Senator LaValle and the points that they both added to this discussion, which I thought was actually very enlightening for all of us.

I would just like to point out an issue that I don't think was raised through this entire discussion. And that is the best protection to an individual who feels that he or she may have been exposed is through the

testing procedure. Even if someone who is being transported does suffer from one of the diseases that was listed, it is not automatic that the disease was transferred to the volunteer or the health care professional. The best method of finding that out is through testing.

If a person feels that for any reason they might have come in contact with a needle or something that could have transferred the disease, the best remedy is to perform a test.

Now, ten years ago that would have been very difficult, because ten years ago it took six months before the HIV virus, for example, could even be identified through a test. Now it can be done in a couple of days, and any prophylactic procedures that might want to take place could take place.

So I would suggest that that would be the best remedy. I would be very interested in reading any cases where anyone, acting as a volunteer or otherwise in the transportation of individuals who had some of the diseases that were listed -- I'd be very

interested in knowing whether or not anybody ever acquired any of these diseases in that particular fashion.

Otherwise, I vote no, Mr. President.

THE PRESIDENT: Senator Paterson, you will be so recorded as voting in the negative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Rath.

SENATOR RATH: Yes.

THE SECRETARY: Senator Rosado.

SENATOR ROSADO: No.

THE SECRETARY: Senator Saland.

SENATOR SALAND: Aye.

THE SECRETARY: Senator Sampson.

SENATOR SAMPSON: No.

THE SECRETARY: Senator Santiago.

SENATOR SANTIAGO: No.

THE SECRETARY: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam President, to explain my vote.

THE PRESIDENT: Senator

Schneiderman, to explain your vote.

SENATOR SCHNEIDERMAN: Thank you, Madam President.

I rise now because listening to this debate -- and I appreciate the sincerity of views on all sides, though -- but I'm struck by something that troubles me. And that's that it seems that as a matter of public health, the issue is very clear. It's been articulated by Senator Duane, Senator Paterson, Senator Nanula, Senator Dollinger, among others. And yet the public health reality doesn't seem to be affecting the views of those who are in support of this bill. Several people have made comments that if you're accidentally pricked by a needle, you should know whether a person -- how a person tests for various diseases so you'll know what to do.

The public-health reality we know is the opposite. If someone tests positive for HIV, it doesn't mean you've got it. If someone tests negative, it doesn't mean you're in the clear.

I'm afraid what we're doing here is

sending a message that your behavior should vary. That is a very bad message to send. It is wrong as a matter of public health. And I don't want people walking around thinking, oh, someone didn't test positive, I'm in the clear. If you're pricked by a needle -- and several people have said this -- you go out and get the precautions no matter what. I don't care how someone tests.

We are sending a very bad message here if we're sending the message that a test tells you what to do. The public health regulations and policies tell you what to do no matter how the test comes out.

So what are we left with? We know you're supposed to take universal precautions in all circumstances. We're left with trying to identify a group of people not for any public-health reason, but I'm afraid for some of the reasons that Senator Paterson, Duane, and others have expressed. Which is that we're dealing with a situation where there is a lot of prejudice and there is a desire to take punitive action against some individuals. And I think that we have to look very

carefully at what we're doing.

But I'm more concerned, as I listen to this, that by passing this bill we're not just doing something that is perhaps neutral as a matter of public health, but that we're sending a message to people that if someone doesn't test positive for HIV and you're exposed to them, that you're in the clear. That is a very bad message to send. I think that we should all recognize that as a matter of public health, and I don't think that's the sponsor's intent.

I'm afraid that passing this bill may have a very negative consequence, so I vote no.

THE PRESIDENT: Senator Schneiderman, you will be recorded as voting in the negative.

The Secretary will continue to call the roll.

THE SECRETARY: Senator Seabrook.

(No response.)

THE SECRETARY: Senator Seward.

SENATOR SEWARD: Yes.

THE SECRETARY: Senator Skelos.

SENATOR SKELOS: Yes.

THE SECRETARY: Senator Smith.

SENATOR SMITH: No.

THE SECRETARY: Senator Spano.

SENATOR SPANO: Aye.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes.

THE SECRETARY: Senator Stafford.

SENATOR STAFFORD: Aye.

THE SECRETARY: Senator Stavisky, excused.

Senator Trunzo.

SENATOR TRUNZO: Yes.

THE SECRETARY: Senator Velella.

SENATOR VELELLA: Yes.

THE SECRETARY: Senator Volker.

SENATOR VOLKER: Yes.

THE SECRETARY: Senator Waldon.

SENATOR WALDON: No.

THE SECRETARY: Senator Wright.

SENATOR WRIGHT: Aye.

THE PRESIDENT: The Secretary will call the absentees.

THE SECRETARY: Senator Farley.

(No response.)

THE SECRETARY: Senator Gonzalez.

(No response.)

THE SECRETARY: Senator Goodman.

(No response.)

THE SECRETARY: Senator Hevesi.

SENATOR HEVESI: Yes.

THE SECRETARY: Senator Johnson.

SENATOR JOHNSON: Aye.

THE SECRETARY: Senator Kruger.

(No response.)

THE SECRETARY: Senator Lachman.

SENATOR LACHMAN: Aye.

THE SECRETARY: Senator Larkin.

SENATOR LARKIN: Aye.

THE SECRETARY: Senator Nozzolio.

SENATOR NOZZOLIO: Aye.

THE SECRETARY: Senator Seabrook.

(No response.)

THE PRESIDENT: The Secretary will announce the results.

THE SECRETARY: Ayes, 40. Nays, 14.

THE PRESIDENT: The bill is passed.

Senator Santiago.

SENATOR SANTIAGO: Madam President, I request unanimous consent to be recorded on Calendar Number 1216, Bill Number 5. In the negative, I'm sorry. In the negative.

THE PRESIDENT: Senator Santiago, you will be so recorded as voting in the negative, without objection.

Senator Nanula.

SENATOR NANULA: Thank you, Madam President. I too would like to request unanimous request to be recorded in the negative on Calendar Number 1216.

THE PRESIDENT: Senator Nanula, you will be so recorded as voting in the negative on Calendar Number 1216.

SENATOR NANULA: Thank you, Madam President.

THE PRESIDENT: You're welcome.

Senator Skelos.

SENATOR SKELOS: Yes, Madam President. I know there is at least one more bill to do today, but Senator Bruno asked that I would mention to the members of the Majority

that following session there will be a conference, Majority conference.

THE PRESIDENT: Following session, there will be a Majority conference.

Senator Gentile.

SENATOR GENTILE: Yes, Madam President. I'd like unanimous consent to be recorded in the negative on Calendar Numbers 658 and 779.

THE PRESIDENT: Senator Gentile, you will be so recorded as voting in the negative.

SENATOR GENTILE: Thank you.

THE PRESIDENT: Senator Hevesi.

SENATOR HEVESI: Madam President, I rise to request unanimous consent to be recorded in the negative on Calendar 1216, Senate Print 5.

THE PRESIDENT: Without objection, you will be so recorded as voting in the negative.

SENATOR HEVESI: Thank you.

THE PRESIDENT: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Yes, thank

you, Madam President. I request unanimous consent to be recorded as voting in the negative on Calendar 658.

THE PRESIDENT: Without objection, you will be so recorded as voting in the negative on Calendar 658.

Senator Lachman.

SENATOR LACHMAN: With unanimous consent, I'd like to be recorded in the negative on Item Senate 1290.

THE PRESIDENT: Senator Lachman, you will be so recorded as voting in the negative on 1290.

Senator Paterson.

SENATOR PATERSON: Madam President, at the close of session today there will be an immediate meeting of the Minority in the Minority Conference Room, Room Number 314.

THE PRESIDENT: At the close of session there will be an immediate meeting of the Minority -- what room was that, Senator Paterson?

SENATOR PATERSON: Excuse me, Madam President? Say again?

THE PRESIDENT: I didn't hear the room, the location of the Minority Conference.

SENATOR PATERSON: Oh, it's 314. Just like pi, Madam President.

THE PRESIDENT: In Room 314. Thank you, Senator, for that clarification.

Senator Lachman. Senator Lachman, there is no 1290 on the calendar, sir.

SENATOR LACHMAN: Okay. Thank you.

THE PRESIDENT: Senator Paterson, why do you rise?

SENATOR PATERSON: No reason.

THE PRESIDENT: Senator Marcellino, shall we continue with the controversial calendar, please.

SENATOR MARCELLINO: Yes, Madam President. Will you call up Senator Hoffmann's bill, please.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1242, by Senator Hoffmann, Senate Print 5054, an act to amend the Vehicle and Traffic Law and the Insurance Law, in relation to

exclusion.

SENATOR MARCELLINO: Read the last section.

THE PRESIDENT: Read the last section.

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

SENATOR PATERSON: Explanation.

THE PRESIDENT: Senator Hoffmann, an explanation has been requested.

SENATOR HOFFMANN: Thank you. I would be pleased to give an explanation to Senator Paterson on this very important bill.

In the field of agriculture there is a disparity between the type of vehicles used for farm activity and vehicles which can be used for other passenger activity. Unfortunately, the current restrictions require people who have farm vehicles to carry insurance just as they would for a passenger vehicle in most cases. This bill will simply allow a change in the insurance laws that would -- so that farm-registered vehicles would be treated the same way as ordinary farm machinery is now covered.

Let me explain that in a little bit more detail for those of you who might be less familiar with agricultural practices. When planting, it is very common to use a flatbed truck that's been modified to carry large bags of seeds out to the field. This truck generally has little other application on the farm, and it does not go more than a few miles in any direction from the barn or the place where it would be garaged. The same is true for other vehicles sometimes used as snowplows and winter vehicles, or vehicles which are used to transport pieces of machinery to and from a field. The other type of usage that would be covered under this would be a vehicle used exclusively or primarily for transportation to the sanitary landfill or resource recovery station.

Under the farm registration requirements currently in effect for farm vehicles, the routing and range and usage of a vehicle is already established at the time of registration. The registration fee is only $6.50 a year. It's considerably less than would be the registration cost if the vehicle

had any other use at all.

Unfortunately, even though the farm plates are on this type of vehicle, at the present time farmers are still required to carry individual no-fault insurance. The bill would address that issue by allowing the farmers to have insurance carried by their umbrella farm policy. Most farms carry at least a million dollars. The majority of them carry several million dollars on their farms, which cover all of their vehicles.

There is simply no difference in the application of this type of vehicle on a farm activity from a tractor which presently is covered under the umbrella policy and does not have individual liability coverage.

I urge all of my colleagues to support this very worthwhile bill. I know that everybody in this chamber wishes the farmers of this state goodwill and reasonable expenses and does not want to see the cost of doing business in any way made unfair by archaic legislation. This is just an attempt to correct some inequities that have been on the books for too long.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if Senator Hoffmann would yield for a couple of questions.

THE PRESIDENT: Senator Hoffmann, will you yield for a couple of -

SENATOR HOFFMANN: Certainly.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, to what extent does the umbrella policy that you just described cover these vehicles if they are on public roads at the time that perhaps some accident occurred?

SENATOR HOFFMANN: They're covered.

SENATOR PATERSON: So in other words, a person who was injured inadvertently from an accident with a farm vehicle on a public road would be no less covered than if the -

SENATOR HOFFMANN: They would be no less covered, Senator Paterson.

If somebody was injured in the vicinity of my farm while I was driving a

farm-registered vehicle, under this statute they would be covered just the same as if I was driving one of my other vehicles.

SENATOR PATERSON: Madam President, if the Senator would continue to yield.

THE PRESIDENT: Senator, will you continue to yield?

SENATOR HOFFMANN: Yes, I'll continue to yield.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Certainly if this is an inequity, Senator, we would -- we really should clear it up. And Senator Kuhl had offered this legislation in the past, and we're happy to see that you also -

SENATOR HOFFMANN: Madam President, I'm having trouble hearing Senator Paterson. I apologize.

THE PRESIDENT: Senator Paterson, could you raise your voice volume, please?

SENATOR PATERSON: Yes, Madam President. What I was just saying, if the Senator would continue to yield -

SENATOR HOFFMANN: And I am yielding.

SENATOR PATERSON: -- is that one of the concerns that has been voiced in the past -- we've had this legislation before - is the issue of litigation, whether or not a person who would be injured in an action caused by a vehicle would have a possibility of bringing action and receiving damages.

If what Senator Hoffmann is saying is correct, which is that there'd be no difference in the liability, then my question to Senator Hoffmann is, how did the inequity exist in the first place?

SENATOR HOFFMANN: I would state, Madam President, that I'm really not in a position to elaborate at any great detail how this particular statute has existed so long. But my personal guess would be that at the time this particular statute was put into effect, there were fewer vehicles in use and there were more people like myself who used oxen and draft horses for some of their farm activities.

I think this is just an indication

that we are finally recognizing the use of more motorized activity in other forms of agriculture. There probably was less of an awareness in times past. And also, the cost of all insurance back before we were such a litigious society was considerably less. But at the present time, the cost of insurance has increased dramatically. And to have an individual policy on any vehicle required to have farm plates on a farm can be very expensive.

It's only reasonable that farmers, who historically have very few claims filed against them for any of the type of activities described by Senator Paterson, should be spared the cost of carrying unnecessary, burdensome, and duplicative insurance. Their umbrella policy covering all of their farm-plated vehicles is more than adequate. And the record will reflect that farmers in this state drive safely, operate machinery safely, and do not deserve to be sued by people who are litigious by nature.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Thank you,

Madam President. If the Senator would continue to yield.

THE PRESIDENT: Senator -

SENATOR HOFFMANN: Yes, I will continue to yield.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, I don't think that we're making any presumptions about anybody and their driving habits as a class of people. There are individuals who violate all of our motor vehicle laws every day, but as a class of people I don't think that farmers or any other profession - outside of legislators -- might abuse the motor vehicle laws.

But the question that I asked previously, and am restating not for the purpose of the integrity of your answer but just out of clarification -- you are saying, if I understand you correctly, that even if the vehicle is used in an activity that's not related to farm work, that the umbrella policy would still cover any damage or injury caused by the use of the vehicle?

In other words, the umbrella policy extends beyond farm work and covers the vehicle if, let's say, someone took the flatbed truck and just was driving it on the New York State Thruway for some other reason? It would still be covered by the umbrella policy; is that correct?

SENATOR HOFFMANN: If the vehicle leaves the designated routing and is not in compliance with the requirements of the farm plates, there would be some liability. But I could not conjecture a guess as to whether that liability would exceed the umbrella policy. I suppose there would be lawyers that would be actively looking for an opportunity to sue somebody in a case like that.

But the simple fact of the matter is the farmers of this state have no reason to want to breach the law in that manner. They would not risk such exposure, and such vehicles are designed for single-purpose use only. They are exclusively farm vehicles.

Instead of looking for ways to find farmers not in compliance with their own practices that could lead to a potential

lawsuit, I think it -- I have to come back to the main point that I made at the outset. The farmers of this state operate their machinery in a safe and appropriate way. This measure simply brings the registration and insurance compliance together under the current standing of farm usage today, Senator Paterson.

I realize that it's difficult for somebody unfamiliar with agricultural practices -- and, for that matter, who doesn't drive too often himself -- to understand this situation. And, Senator Paterson, I assure you you have nothing to fear from the farmers of this state driving a flatbed tractor truck with farm plates on it or a motorized hay vehicle or a forage wagon or a yard truck with a plow on it.

The farmers of this state are simply looking to save a modest amount of money in their farm expenses by having the farm plate and insurance requirements synchronized.

SENATOR PATERSON: Madam President -

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: -- if the Senator would continue to yield.

THE PRESIDENT: Senator, do you continue to yield?

SENATOR HOFFMANN: Yes, I would.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: Senator, in a case where a person would be hit by a flatbed truck that, let's say, was on a public highway away from the farm, in a single incidence was being operated off the farm itself and is now on a public thoroughfare, the victim of the accident compared to the victim of a car accident that could have taken place in the same place at the same time is possibly precluded from recovering because the vehicle may have exceeded the liability as set forth by the umbrella policy for the farm and now has no insurance; is that not correct?

SENATOR HOFFMANN: Senator Paterson, would you restate your question? That was a long statement, and I'm not sure I understand exactly what the thrust of your question is.

SENATOR PATERSON: If a person was hit by a flatbed truck instead of a car, there's a difference in the amount of money, in the amount of damages they might receive because the car is covered by automobile insurance; the flatbed truck may not have any insurance because it's exceeded the prescription of what the umbrella policy to the farm allows.

SENATOR HOFFMANN: Senator Paterson, farmers in this state maintain a very large amount of insurance coverage in their umbrella policies that would cover such a situation. That's the first point.

The second point is if the farm vehicle is not operating in compliance with its legally designated farm-plate capability, then that farmer would in fact be liable for a criminal charge.

The farmers are not going to place themselves in such a situation where they could be at risk, number one. And, number two, these vehicles in most cases aren't capable of being used in ways that would take them out of the required -- the prescribed

farm use.

SENATOR PATERSON: Madam President -

SENATOR HOFFMANN: You are simply -- I -- I must -- I must state for the record that the line of the questions implies criminal intent on the part of the farmers of this state. And on behalf of the farmers of this state, I want to make very clear that that is an erroneous conclusion and one that many farmers would find offensive.

Secondly, it is also the intent of the farmers of this state to always maintain an adequate amount of insurance to cover any type of contingency. And I would hope that my esteemed colleague, Senator Paterson, would recognize that as professionals operating businesses, they would of course maintain the necessary insurance to cover any contingency, even ones that might not be easily foreseen in the course of operating farm vehicles.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Madam President, if the Senator would continue to yield.

SENATOR HOFFMANN: Yes, I will.

THE PRESIDENT: Go ahead, Senator Paterson.

SENATOR PATERSON: I said, Madam President, and the record will reflect that in a single instance Senator Hoffmann is associating my remarks with a class of people. None of those remarks were directed that way. As a matter of fact, I didn't even say that a farmer would be driving the vehicle.

If Senator Hoffmann would turn her attention to what I said about the insurance policy, I was not commenting on the numerical value in terms of dollars of the policy. I was questioning whether or not the policy would relate to that kind of an accident. And that kind of an accident may or may not be criminal in nature, but criminality was not an issue I was addressing in the questioning at all.

I was addressing the civil liability of the operator of the vehicle if the vehicle had an accident. We have had accidents from time to time in this state caused from a variety of sources, of which all

of us in society are often the catalyst. But in a particular situation, on the part of the person who might be victimized through an accident, we want to make sure that all of New York State's residents are afforded -- we want to make sure that all of New York State's residents are afforded at least an opportunity to receive damages or at least to sue in a civil court.

And what I'm trying to get from Senator Hoffmann, Madam President, if she continues to yield, is if in the event this policy doesn't cover this, what remedy the victim has.

SENATOR HOFFMANN: Madam President, through the Chair.

Once again, Senator Paterson has phrased his question in such a way that he indicates a lack of knowledge of the operations of New York State agriculture. And I must inform Senator Paterson again that the policy requires -- that the farm policy and the farm plates require the farmers to maintain exactly the type of insurance in the amount that he is hoping they would maintain.

The citizens of this state who could come into contact with a farm-plated vehicle under some of the hard-to-imagine circumstances described by Senator Paterson would not in any way be jeopardized from recovery on a scale that they would be able to recover today.

SENATOR PATERSON: Thank you, Madam President. On the bill.

Unfortunately, it did not appear that Senator Hoffmann was ever able to distinguish between the situation that exists on the farm and anywhere else. The reality is that when a vehicle leaves that territory - and at the time of a possible accident, it might not be in the contemplation of the driver which property they're actually on - the policy may be affected by where the vehicle is at that particular time.

If the policy does not cover damages beyond what is the actual use as prescribed in the policy, now the victim has a problem of dealing with an uninsured vehicle. There may not be any criminality involved, but that's actually irrelevant to the point.

The point is actually that in terms of assessing what the rights of the victim may be, if we bar those rights through this legislation and have estopped the victim from having any collateral action against the person who may have caused damage, we have hindered the opportunity of individuals, who may themselves be farmers, from recovering.

So I like the way Senator Hoffmann set forth in the legislation the way this could be cured. If it was more specific as to what the parameters were of the -

THE PRESIDENT: Senator Hoffmann, why do you rise?

SENATOR HOFFMANN: I wonder if Senator Paterson would yield for a question himself.

SENATOR PATERSON: Certainly.

SENATOR HOFFMANN: Senator Paterson, when you raised the question that a farm vehicle could be involved or in the unlikely case that a farm vehicle could be involved in an accident on the New York State Thruway, was it because you were under the impression that such a vehicle could not be on

a public road?

SENATOR PATERSON: No, the vehicle could quite properly be on a public road. The question is what would happen when it is on a public road.

SENATOR HOFFMANN: And I'm -

THE PRESIDENT: Senator Hoffmann.

SENATOR HOFFMANN: Thank you, Madam President.

To further clarify for Senator Paterson an area where he seems to still be confused, farm-plated vehicles are entitled to be on public roads at the present time. And with the change in the insurance requirements, there would be no distinction between the way they are used today and the way they would be used then. It would simply be a reduced cost of the coverage because the umbrella policy would be in effect.

But there is no reason why a farm vehicle cannot be on a public road if, according to the farm plates, it is one of the designated routes and part of the designated responsibilities of such a vehicle. That is consistent with contemporary farming activity

today. It is already regulated by Motor Vehicles.

And this simply brings the insurance requirements into the appropriate relationship with the use of that vehicle. Since it's not used, cannot be used, would have no purpose in being used as a passenger vehicle on the New York State Thruway, as Senator Paterson described, the scenario characterized by Senator Paterson would not be a likely scenario and in fact could not occur under most characterizations by this law.

Does that help you, Senator Paterson?

SENATOR PATERSON: Madam President, on the bill.

THE PRESIDENT: On the bill, Senator Paterson.

SENATOR PATERSON: We're really not here to determine what the likely circumstances are. In fact, most legal actions involve unlikely circumstances. And so when we look at a situation as described in Senator Hoffmann's bill -- she's talking about the operation of vehicles between a farm and

another farm -- it is possible that between a farm and another farm that the public highways might be used, because they might connect the farms or they might for any reason be used by farm-plated vehicles.

Hearing no definitive answer as to where a policy restricts recovery, and being provided with information that the policies beyond a certain point do restrict recovery, we're saying that you do not ever want to have the dangerous precedent in a law where, when an accident occurs, there is a difference in the recovery based on the -- who actually hit the individual.

Now, we have situations where people, regular citizens, whatever it is they do, are driving uninsured vehicles. And the unfortunate problem for the victim is that they can't recover civilly in these situations. What we're suggesting is that we don't want to prescribe into the law a situation that usually happens in the rarest of circumstances, where an individual is operating a vehicle without insurance. We don't want to codify a situation where that

could possibly happen so that some prospective victim in an unlikely case in the future - this is not the kind of thing that would happen every day, but it does happen. And in those situations, we wouldn't want one of our constituents, perhaps one of Senator Hoffmann's, constituents to be put in the situation -

THE PRESIDENT: Senator - Senator Kuhl, why do you rise?

SENATOR KUHL: I was so entertained and enthralled with Senator Paterson's discussion on this bill that it brought back some historic visions. I was a sponsor of a bill five years ago that became law which I sense, I think, brought about this discussion and Senator Hoffmann's proposal.

So I was just wondering, having been lured, I think, into this discussion, as to whether or not Senator Paterson would yield to a question.

THE PRESIDENT: Senator Paterson, will you yield to a question?

SENATOR PATERSON: I'd be most happy to, Madam President.

THE PRESIDENT: Go ahead, Senator Kuhl.

SENATOR KUHL: Senator Paterson, I was listening to your questions, and I apologize for not being here at the beginning of the debate, so I may have missed this and you may have answered this question or even discussed this before. But you recall, do you not, the passage of the bill back in 1994 that dealt with allowing for some differences relative to what we call farm-plated vehicles meeting certain safety standards because of their abnormal usage in the field on farms and their limited usage on farms and therefore they were given an exemption in meeting certain requirements? Do you recall that?

SENATOR PATERSON: Yes, Senator, I recall it, and I actually voted for it.

SENATOR KUHL: I thought you did. I thought you did. Because I know that there's a tremendous sympathy with upstate New York and the farming community in your heart.

But in part of that bill was a requirement, and at the time I was a little hesitant about its inclusion in the bill, for

insurance on these vehicles. Do you recall that particular provision?

SENATOR PATERSON: I don't recall the particular provision. But I would -- I didn't realize that insurance was included in that.

SENATOR KUHL: Yeah. We -- it used to be that these farm vehicles were not required to be insured. But because we were changing the registration and safety requirements for them, it was thought that maybe there was a need for them to be insured because now we are actually authorizing them as a state for usage on the public highways.

Because many of the farms out in the western part of the state and the northern part of the state have fields that are significant distances apart and only connected by public highways. And so if these vehicles were then going to be moving about on these highways, either taking their crop back to the home farm and then it being transported to market by other normally registered vehicles or whatever, that there was some exposure. And so there was a requirement put in place

for insurance.

Now, you -- you don't -- you say you don't remember that particular provision.

SENATOR PATERSON: No, I didn't remember it being in that particular bill.

SENATOR KUHL: Well, since then, for your benefit, since that time, because of that additional requirement, we have found that the availability of insurance under a general liability policy was not necessarily always available. And therefore these limited usage vehicles were required to have separate insurance policies placed on them, which added expense, add an expense -- in some cases, a very large expense -- to farmers.

Senator Hoffmann's proposal is an attempt to try to minimize that expense and take us back to ground zero, if you will, back to 1994 as far as the expense to the farmers, but to provide the same kind of coverage with regard to insurance. And therefore, the reason for this proposal is to include in a general liability policy the requirement -- or the availability of farm-plated vehicles to be covered.

Now, my question to you is, as a lawyer you are aware of that saying that we always had that you can't get blood out of a stone? You remember that in law school; right?

SENATOR PATERSON: I don't remember that from law school, Senator, but I have heard it.

SENATOR KUHL: It may have been in one of those backyard battles that we had, and you were the stone.

In any case, my thought to you, and I guess my question was, you know, if an individual in this situation -- I think just to take you back to your question, if an individual has an insurance policy -- I should say if an individual is a victim of an accident and that individual sues, and they sue a person who has an insurance policy, whether it's an automobile policy, whether it's a general liability policy, whether it's some sort of -- any kind of an insurance policy, I think we all understand as lawyers that you can reach a maximum of that policy but there are further recoveries over and

above that. Isn't that true?

SENATOR PATERSON: That is correct, Senator.

SENATOR KUHL: So in the case of a farmer who has a farm-plated vehicle which is in his name or her name and in fact has a policy, whether it's a general liability policy or whether it happens to be an automobile policy, and that vehicle is involved in an accident, whether it's that individual himself or an employee of that individual, and in fact there is a lawsuit, we understand fully that in fact, once the limits of that policy are exhausted, that all of the other assets of that individual now become eligible for attachment as a result of any kind of a subsequent recovery. It could be the entire farm, it could be all the product on the farm, it could be the cows on the farm, it could be, you know, all of the other assets of the farm. Anything that that individual owns could be subject to recovery; isn't that correct?

SENATOR PATERSON: Generally, you are correct, Senator.

SENATOR KUHL: So my point to you, I guess in response to your dialogue, from what I'm hearing -- and your questions I thought were probably best answered by a series of questions pointing out to you that insurance coverage carried by a farm, whether it's in the form of a general liability policy or a strict automobile policy, is not going to limit recovery to any victim of any accident. But the only limit of the recovery will be the total assets of the farm or the owner of that vehicle that's involved in that accident.

And so my question to you is, after you exhaust all of the assets, what more are you looking for to protect the victims of accidents in the state of New York?

SENATOR PATERSON: Madam President.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: One of the reasons that we have insurance is hopefully to protect victims from any type of circumstance from the possibility that the defendant in a civil action doesn't have significant assets. There are a number of ways beyond insurance

policies that respondents in these types of actions can protect their assets, shield their assets, transfer their assets so that the plaintiff is offered no real recovery. So the insurance policy, as any active litigator will tell you, is the best weapon of the plaintiff in a civil action for recovery of damages.

What often happens to plaintiffs is that it takes such a long time to secure the attachments that literally the plaintiff can't afford to continue the action. And one of the biggest problems that anyone that's ever tried to sue anyone has is that quite often they don't have the resources or the wherewithal to get to the defendant's assets, but they do have the insurance policy.

Now, if Senator Kuhl would be willing to yield for a question.

THE PRESIDENT: Senator, will you yield for a question?

SENATOR KUHL: Absolutely.

THE PRESIDENT: Go ahead, Senator Paterson, you may proceed with a question.

SENATOR PATERSON: Senator, in my original questioning -- and I don't know

whether or not you were here -- in my original questioning to Senator Hoffmann I asked her the question -- it was the first question I asked her -- whether or not the umbrella policy of the farm would cover the vehicle when it was on the public roads. And Senator Hoffmann said yes.

In a second question to Senator Hoffmann, I was a little bit more specific about the activity of the actual umbrella policy. And Senator Hoffmann the second time said that there might be some limitation of the liability. She was not exactly sure - did not know specifically what the answer was.

I was wondering if you might be able to offer us some further explanation of what the restrictions are on the umbrella policy of the farm as it relates to the vehicle if the vehicle is traveling on the public roads.

SENATOR KUHL: Senator, don't misuse the terms "umbrella" and "general liability." An umbrella policy is a policy that covers in addition to every other policy that's in effect. What we're talking about

basically is the general liability policy.

So when you buy a home, you buy an insurance policy that's a general liability insurance. Also, it generally has fire insurance coverage on it, maybe coverage for other disasters. But there's a general liability policy that covers other types of general accidents.

Now, most farms that we have in the State of New York are mortgaged. So what you have is a requirement for a general liability policy at least in the amount of the mortgage. And those mortgages, I can tell you right now, on the average are more than your basic automobile insurance policy, which I believe is a 25, 50, maybe 100 policy.

So on a single accident, maximum coverage which is required on any kind of an automobile in the State of New York is $25,000. All of your general liability policies -- all of your general liability policies, as I understand -- I'll wait till you get through, Senator.

All of your general liability policies for the most part in New York are

bigger than that. So the insured coverage for a general liability policy will be greater than automobile coverage.

Now, on that there are no restrictions, as I would understand it, under this bill with regard to ultimate recovery relative to the policy dollar amount.

Now, over and above that, you could go out and get an umbrella policy which would raise the limits of that general liability policy. Many people get, say, a $200,000 or $300,000 policy, but they want to extend their coverage up in limited circumstances. So they'll go and they'll get an umbrella policy, which is generally fairly cheap, which might extend that maximum coverage up to a million dollars.

Now, you have to have the general liability policy to get the umbrella policy in most instances. So what the bill calls for is an inclusion in that general liability policy of the farm vehicles. There would be no restriction on any coverage under this definition. And then the umbrella policy would provide you a larger amount.

So actually, under this proposal we probably would be giving you that pocket to go after of available money much larger than any automobile policy in the state of New York that currently exists.

THE PRESIDENT: Senator Paterson.

SENATOR PATERSON: Senator, believe it or not, Madam President, I think we're actually getting somewhere.

So, Senator, just to verify that I understand this, you are saying that through the umbrella policy on top of the general liability policy -- which I hope in your answer you will clarify for me how many farmers have it -- but in this scenario that you've described, the deep pockets are established? In other words, the vehicle is protected, and the potential injury is therefore insured; is that correct?

SENATOR KUHL: I think that's correct, Senator.

SENATOR PATERSON: Thank you, Senator.

THE PRESIDENT: Read the last section.

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

THE PRESIDENT: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 3. Senators Connor, Dollinger, and Duane recorded in the negative.

THE PRESIDENT: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President. May we lay aside Senate Calendar Number 1236 for the day?

THE PRESIDENT: The bill is laid aside for the day, Senator Marcellino.

SENATOR MARCELLINO: May we return to reports of standing committees?

And I believe you have a report of the Rules Committee at the desk. Can we have it read at this time?

THE PRESIDENT: We'll return to reports of standing committees. The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the

following bills:

Senate Print 1290, by Senator Rath, Concurrent Resolution of the Senate and Assembly;

1842A, by Senator LaValle, an act to amend the Education Law;

2214, by Senator Farley, an act to amend the Labor Law;

2965, by Senator Lachman, an act to authorize the City of New York to reconvey its interest;

3200, by Senator Paterson, an act authorizing the City of New York to reconvey its interest;

3247, by Senator Kuhl, an act to amend the Retirement and Social Security Law;

3997A, by Senator Farley, an act to amend Chapter 334 of the Laws of 1998;

4115, by Senator Spano, an act to amend Chapter 666 of the Laws of 1990;

4432A, by Senator Saland, an act to amend the Family Court Act and the Civil Practice Law and Rules;

4464, by Senator Nozzolio, an act to amend the Vehicle and Traffic Law;

4485, by Senator Trunzo, an act to amend the Public Authorities Law;

4696, by Senator Hannon, an act to amend the Public Health Law;

4874, by Senator Hannon, an act to amend the Public Authorities Law;

4889A, by Senator Marchi, an act to amend the Business Corporation Law;

5450, by Senator Leibell, an act to amend the Public Officers Law;

5627, by the Senate Committee on Rules, an act to amend the Tax Law;

5642A, by Senator Wright, an act to amend the Environmental Conservation Law;

5654A, by Senator Maziarz, an act to amend the General Municipal Law and the Vehicle and Traffic Law;

5657A, by Senator Marcellino, an act to amend Chapter 600 of the Laws of 1993;

5694, by Senator Maltese, an act to amend the Public Authorities Law;

5695, by Senator Balboni, an act to amend the Public Authorities Law;

5724, by Senator Saland, an act to amend Chapter 55 of the Laws of 1992;

5761, by Senator Johnson, an act to authorize the North Babylon Union Free School District;

5771, by Senator Morahan, an act to amend the Social Services Law;

And 5800, by Senator Morahan, an act to amend the Social Services Law.

All bills ordered direct for third reading.

THE PRESIDENT: Without objection, all bills ordered direct to third reading.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President. May we return to motions and resolutions? I believe you have four privileged resolutions by Senator Onorato at the desk. May we have the -

THE PRESIDENT: Senator Marcellino, we have to first accept the report of the Rules Committee.

SENATOR MARCELLINO: I'm sorry, I thought we moved to accept it.

THE PRESIDENT: The motion is to accept the report of the Rules Committee. All

in favor signify by saying aye.

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The report of the Rules Committee is accepted.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Madam President. May we now return to motions and resolutions?

We have four privileged resolutions by Senator Onorato at the desk. May we have the titles read, and move they be accepted.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senators Onorato, Trunzo and Maltese, Legislative Resolution Number 1861, commending Edith Louise Zuzolo upon the occasion of her designation by the Order Sons of Italy in America as the recipient of the Dr. Vincenzo Sellaro Award.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senators Onorato, Trunzo and Maltese, Legislative Resolution Number 1862, honoring Father Donald B. Licata in celebration of his 40th anniversary of his ordination, to be celebrated on June 11, 1999, during the Annual Grand Convention of the Grand Lodge of the State of New York Order Sons of Italy in America.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senators

Onorato, Trunzo and Maltese, Legislative Resolution Number 1863, commending John B. Dabbene upon the occasion of his designation by the Order Sons of Italy in America as the recipient of the 1999 Dr. Vincenzo Sellaro Award.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

The Secretary will read.

THE SECRETARY: By Senators Onorato, Trunzo and Maltese, Legislative Resolution Number 1864, commending Nicholas G. Viglietta upon the occasion of his designation by the Order Sons of Italy in America as the recipient of the 1999 Bene Emeritus Award.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, is there any other housekeeping at the desk?

THE PRESIDENT: Yes, there is, Senator Marcellino.

Senator Rath.

SENATOR RATH: Yes, Madam President. I'd like to request that my sponsor star be removed from Calendar 1162. Remove the star from 1162. Thank you.

THE PRESIDENT: Without the objection, the bill is starred.

SENATOR MARCELLINO: Removed, Madam President. The star is removed.

THE PRESIDENT: Thank you, Senator.

Without objection, the star is removed.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Madam

President, I request unanimous consent to be recorded in the negative on Calendar 1242.

THE PRESIDENT: You will be so recorded, Senator Schneiderman, as voting in the negative.

SENATOR SCHNEIDERMAN: Thank you.

THE PRESIDENT: Without objection.

Senator Balboni.

SENATOR BALBONI: Madam President, I move that the -- to commit Senate Print Number 16A, Calendar Number 48 on order of third reading, to the Committee on Rules, with the instruction to said committee to strike out the enacting clause.

THE PRESIDENT: So ordered, Senator Balboni.

SENATOR BALBONI: In addition to which, I move once again to commit Senate Print Number 17A, Calendar 49 on order of third reading, to the Committee on Rules, with instructions to said committee to strike out the enacting clause.

THE PRESIDENT: So ordered, Senator.

SENATOR BALBONI: And lastly, I move to commit Senate Print Number 20, Calendar Number 51 on the order of third reading, to the Committee on Rules, with once again instructions to said committee to strike out the enacting clause.

THE PRESIDENT: So ordered, Senator Balboni.

SENATOR BALBONI: Thank you, Madam President.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President. I wish to call up my bill, Print Number 3661, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 332, by Senator Bonacic, Senate Print 3661, an act to amend the Private Housing Finance Law.

SENATOR BONACIC: Madam President, I now move -

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Thank you, Madam President. I now move to reconsider the

vote by which this bill was passed.

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: Senator Bonacic.

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

THE PRESIDENT: The amendment is received.

SENATOR BONACIC: Thank you, Madam President.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Madam President, I wish to call up my bill, Print Number 3663, recalled from the Assembly, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 1048, by Senator Bonacic, Senate Print 3663, an act to amend Chapter 915 of the Laws of 1982.

THE PRESIDENT: Senator Bonacic.

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

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: Senator Bonacic.

SENATOR BONACIC: Madam President, I now offer the following amendment.

THE PRESIDENT: The amendment is received, Senator Bonacic.

SENATOR BONACIC: Thank you very much, Madam President.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On -- incidentally, on -- I was out of the chamber on Senate business when 1223 had a slow roll. And had I been here, I would have voted aye.

But I also have a motion. Madam President, I wish to call up -

THE PRESIDENT: The record will

so reflect, Senator.

SENATOR FARLEY: Thank you.

On behalf of Senator Bruno, Madam President, I wish to call up his bill, Calendar Number 235, Assembly Print 6909A, which is now at the desk.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: Calendar Number 235, by Member of the Assembly Diaz, Assembly Print Number 6909A, an act to amend the Education Law.

THE PRESIDENT: Senator Farley.

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

THE PRESIDENT: The Secretary will call the roll upon reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

THE PRESIDENT: Senator Farley.

SENATOR FARLEY: Incidentally, that was the Assembly Bill, which was substituted for the Senate Print 1922A on 5/11. And that bill was decided in the affirmative.

I now move that the Assembly Bill, 6909A, be recommitted to the Committee on Rules, and that the Senate Bill be committed to the Rules Committee.

THE PRESIDENT: So ordered. And the bill will be recommitted, Senator Farley.

SENATOR FARLEY: Thank you.

THE PRESIDENT: You're welcome.

Senator Marc -- Senator McGee.

SENATOR MARCELLINO: I will yield to Senator McGee, with pleasure.

THE PRESIDENT: Thank you, Senator Marcellino.

SENATOR McGEE: Thank you, Madam President.

On behalf of Senator Skelos, please place a sponsor star on Calendar Number 91.

THE PRESIDENT: So ordered, and the bill is so starred.

SENATOR McGEE: Thank you.

Amendments are offered to the following Third Reading Calendar bills:

On behalf of Senator Fuschillo, page number 13, Calendar Number 380, Senate Print 3766;

On behalf of Senator Bonacic, page number 53, Calendar Number 1249, Senate Print 5732;

On behalf of Senator Hannon, page number 40, Calendar Number 953, Senate Print 4775;

On behalf of Senator Bonacic, page number 46, Calendar Number 1049, Senate Print 3908A;

On behalf of Senator Leibell, page number 48, Calendar Number 1110, Senate Print 5328;

On behalf of Senator Saland, page number 54, Calendar Number 935, Senate Print 5117;

On behalf of Senator Skelos, page number 23, Calendar Number 634, Senate Print 13A.

Madam President, without the help of cashews, I now move that these bills retain their place on the order of the third reading.

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

SENATOR McGEE: Thank you, Madam

President.

THE PRESIDENT: Thank you.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, are there any substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

SENATOR MARCELLINO: Can we have those substitutions made, please?

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 14, Senator LaValle moves to discharge, from the Committee on Rules, Assembly Bill Number 6840 and substitute it for the identical Third Reading Calendar, 404.

And on page 20, Senator Fuschillo moves to discharge, from the Committee on Rules, Assembly Bill Number 6510A and substitute it for the identical Third Reading Calendar, 589.

THE PRESIDENT: The substitutions are ordered.

Senator Marcellino.

SENATOR MARCELLINO: Madam President, is there any other housekeeping at the desk?

THE PRESIDENT: No, there is not, Senator.

SENATOR MARCELLINO: Thank you, Madam President.

I might remind our colleagues on both sides of the aisle that the Minority will be conferencing in 314 and the Majority will be conferencing in 332 as soon as I finish speaking.

And at this point, there being no further business, I move we adjourn until Thursday, June 10, at 11:00 a.m.

THE PRESIDENT: On motion, the Senate stands adjourned until Thursday, June 10th, 11:00 a.m.

(Whereupon, at 4:35 p.m., the Senate adjourned.)