NEW YORK STATE SENATE

THE

STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 10, 1999

11:05 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 join me in the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT MEIER: In the absence of clergy, I ask that we please bow our 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, Wednesday, June 9th, the Senate met pursuant to adjournment. The Journal of Tuesday, June 8th, 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 Fuschillo.

SENATOR FUSCHILLO: Mr. Preside nt, thank you. On behalf of Senator Lack, on page 11 I offer the following amendments to Calendar 348, Senate Print Number 3398, 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 Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President. On behalf of Senator Bruno, I wish to call up Calendar Number 528, Assembly Print Number 996A.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar 528, by

Member of the Assembly Jacobs, Assembly Print 996A, an act to amend the Social Services Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the Assembly bill was substituted for Senate Print Number 3931 on 5/26.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

SENATOR FUSCHILLO: I now move that Assembly Bill Number 996A be recommitted to the Committee on Rules and Senate Bill 3931 be recommitted to Rules.

ACTING PRESIDENT MEIER: So ordered.

Substitutions. The Secretary will read.

THE SECRETARY: On page 52, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill 7708 and substitute it for the identical third reading, 7708.

On page 52, Senator Hannon moves to discharge, from the Committee on Rules,

Assembly Bill 8073 and substitute it for the identical third reading, 1265.

On page 52, Senator Wright moves to discharge, from the Committee on Rules, Assembly Bill 8151 and substitute it for the identical third reading, 1269.

On page 53, Senator Balboni moves to discharge, from the Committee on Rules, Assembly 8349A and substitute it for the identical third reading, 1273.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator McGee.

SENATOR McGEE: At this time may we please have the noncontroversial reading of the calendar.

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

THE SECRETARY: Calendar Number 161, by Senator Fuschillo, Senate Print 557A, an act to amend the Real Property Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. 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, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 704, by Senator Marcellino, Senate Print 827B, an act to amend the Labor Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 793, by Senator Rath, Senate Print 4390A, an act to authorize payment of transportation aid.

ACTING PRESIDENT MEIER: There's a local fiscal impact note 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, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 814, by Member of the Assembly Vitaliano, Assembly Print 6676A, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 914, by Senator Balboni, Senate Print 4664A, an act to amend Chapter 492 of the Laws of 1993.

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, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 972, by Member of the Assembly Smith, Assembly Print 7135A, an act to amend Chapter 332 of the Laws of 1996.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR KUHL: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1000, by Senator Alesi, Senate Print 4125, an

act to amend the Labor Law.

ACTING PRESIDENT MEIER: Read the last section.

Senator McGee.

SENATOR McGEE: Mr. President, would you please lay aside Calendar Number 1000 for the day, please.

ACTING PRESIDENT MEIER: Lay aside Calendar 1000 for the day.

THE SECRETARY: Calendar Number 1095, by Senator Skelos, Senate Print 1206A, an act to amend the Civil Practice Law and Rules.

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, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1107, by Senator Maltese, Senate Print 3525A,

an act to amend the Election Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1229, by Senator Wright, Senate Print 4162A, an act to amend the Public Service Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

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 and the Transportation Law.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

THE SECRETARY: Calendar Number 1248, by Senator Larkin, Senate Print 5676A, an act to authorize the Commissioner of the Department of Transportation.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1253, by Senator Rath, Senate Print 1290, Concurrent Resolution of the Senate and Assembly.

SENATOR DOLLINGER: Lay that aside too.

ACTING PRESIDENT MEIER: Lay it aside.

THE SECRETARY: Calendar Number 1254, by Senator LaValle, Senate Print 1842A, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1255, by Senator Farley, Senate Print 2214, an act to amend the Labor Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

SENATOR DOLLINGER: Thank you.

THE SECRETARY: Calendar Number 1256, by Senator Lachman, Senate Print 2965, an act authorizing the City of New York to reconvey its interest.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1257, by Senator Paterson, Senate Print 3200, an act authorizing the City of New York to reconvey its interest.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1258, by Senator Kuhl, Senate Print 3247, an act to amend the Retirement and Social Security Law.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1259, by Senator Farley, Senate Print 3997A, an act to amend Chapter 334 of the Laws of 1998.

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, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1260, by Senator Spano, Senate Print 4115, an act to amend Chapter 666 of the Laws of the 1990.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1261, by Member of the Assembly Weinstein, Assembly Print 7708, an act to amend the Family Court Act and the Civil Practice Law and Rules.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Nozzolio, Senate Print 4464, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 2. This act shall take effect in 60 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1263, by Senator Trunzo, Senate Print 4485, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1264, by Senator Hannon, Senate Print 4696, an

act to amend the Public Health Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1265, substituted earlier today by the Assembly Committee on Rules, Assembly Print 8073, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1266, by Senator Marchi, Senate Print 4889A, an act to amend the Business Corporation Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1267, by Senator Leibell, Senate Print 5450, an act to amend the Public Officers Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1268, by the Senate Committee on Rules, Senate Print 5627, an act to amend the Tax Law.

SENATOR DOLLINGER: Lay it aside, Mr. President.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1269, substituted earlier today by the Assembly Committee on Rules, Assembly Print 8151, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1271, by Senator Marcellino, Senate Print 5657A, an act to amend Chapter 600 of the Laws of 1993.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1272, by Senator Maltese, Senate Print 5694, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1273, substituted earlier today by the Assembly Committee on Rules, Assembly Print 8349A, an act to amend the Public Authorities

Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1275, by Senator Saland, Senate Print 5724, an act to amend Chapter 55 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, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1276, by Senator Johnson, Senate Print 5761, an act to authorize the North Babylon Union Free School District.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 38.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1277, by Senator Morahan, Senate Print 5771, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1278, by Senator Morahan, Senate Print 5800, an act to amend the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 39.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Senator Stachowski.

SENATOR STACHOWSKI: Yes, Mr. President. I'd like to get unanimous consent to vote in the negative on Calendar 1276.

ACTING PRESIDENT MEIER: Without objection, Senator Stachowski will be recorded in the negative on Calendar Number 1276.

Senator McGee.

SENATOR McGEE: Thank you,

Mr. President. Now may we have the controversial reading of the calendar.

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

THE SECRETARY: Calendar Number 972, by Member of the Assembly Smith -

SENATOR McGEE: Lay it aside temporarily, please.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 1107, by Senator Maltese, Senate Print 3525A, an act to amend the Election Law.

SENATOR DOLLINGER: Explanation.

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

SENATOR MALTESE: Mr. President, current election law does not provide a specific time limitation to bring challenges as to the form and content of the ballot. At the request of the State Board of Elections, this legislation was put -

ACTING PRESIDENT MEIER: Excuse

me a moment, Senator Maltese.

Can we have some order in the chamber so that the stenographer can hear and so that the rest of us can hear.

Senator Maltese.

SENATOR MALTESE: At the request of the State Board of Elections, this legislation was put in last year, and it passed at that time 57 to 1, with my good colleague Senator Dollinger in the negative.

After reflection and having the - in consulting with both Senator Dollinger and Senator Hevesi, the -- we assured Senator Dollinger that in fact the three-day period does not affect any proposed -

ACTING PRESIDENT MEIER: We're trying to conduct a debate. And I'd wish people would take conversations outside the chamber if they're going to have them.

Senator Maltese. Excuse me for the interruption, but go ahead.

SENATOR MALTESE: That's quite all right.

-- does not affect any proposed amendment or constitutional question which

would -- which is still governed by the 14-day provision.

SENATOR DOLLINGER: Mr. President, just to clarify, the -

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

SENATOR MALTESE: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: The three-day period in this bill, would it affect propositions in local elections, local ballots that would be referendums in the County of Monroe or in Queens County or some other place, but the state constitutional process where the form of propositions that go on the ballot would still be subject to a 14-day period in which to challenge the content or the form of the proposition?

SENATOR MALTESE: That's correct.

SENATOR DOLLINGER: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman -- I'm sorry, Senator Hevesi. That's a compliment, sort of.

SENATOR HEVESI: Thank you for the compliment, Mr. President.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Mr. President, when this bill came through the Elections Committee, there was, in specific, one technical problem with the legislation which had at that time flawed an otherwise good piece of legislation. We brought that to the attention of Senator Maltese, who chairs the Elections Committee, and he has incorporated that minor but significant change in this legislation.

And I simply wanted to rise to recognize that this is a minor but terrific example of putting policy out of politics, putting aside the partisanship that unfortunately brings to stagnation here the process up in Albany. And this should stand as a small model of how we should conduct our affairs.

So, Senator Maltese, I intend to vote in support of this bill, and I applaud

you for your efforts to make sure that the legislation that comes out of your committee is the best possible legislation.

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, 42.

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 and the Transportation Law, in relation to authorizing.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT MEIER: Senator Trunzo, an explanation has been requested of Calendar 1236 by Senator Dollinger.

SENATOR TRUNZO: Mr. President,

this bill provides that -- the DOT currently has only one sign fabrication shop, which is located in Hamburg, New York. And what this bill does is allows the Department of Transportation to enter into agreements for the production of signs for traffic control devices to state agencies, public authorities and other public political subdivisions, so that they don't have to go out of state to have their signs made, they can be made within the state of New York.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President. Senator Trunzo, will you yield to a question?

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: As I understand it, there's only one shop in the state that has the ability to produce these signs, the highway signs and road traffic

signs.

SENATOR TRUNZO: That's what it seems. The Department of Transportation has its own sign shop in Hamburg, New York, and many other subdivisions of government that have to have traffic signs made of one sort or another, a lot of them go out of state to have them done -- for whatever reasons, I don't know.

But this would permit the State Department of Transportation to charge the local governments for their signs and produce signs for our local governments.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Trunzo would continue to yield.

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Doesn't this create a monopoly for that particular branch, and won't it eliminate private-sector competition? Can't private-sector companies

produce these -

SENATOR TRUNZO: Not necessarily. Not necessarily. Because what would happen here -- I mean, they could use the DOT sign fab shop, but if -- if the -- from what I understand, they are also working pretty well to capacity.

This is not a mandated bill that they have to do it, so the municipality can go otherwise, other than to the State Department of Transportation to have their signs made. So it's not a monopoly in that sense.

SENATOR DOLLINGER: Again, through you, Mr. President. I'm having some difficulty hearing Senator Trunzo.

Do I understand correctly that other companies will still be allowed to produce these signs and if a municipality or even the State of New York, for that matter, wants to purchase those signs, that they could do that?

My concern -- through you, Mr. President -- is that, you know, we've talked about privatization of some of these things. I mean, is this -- are we going in

the other direction here, just so I understand this?

SENATOR TRUNZO: They can still do whatever they're currently doing and have other companies produce their signs. It's not becoming a monopoly in that sense. They have a choice.

SENATOR DOLLINGER: Through you, Mr. President.

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Will private individuals other than municipalities be able to buy these signs as well?

SENATOR TRUNZO: No. I think this is strictly for municipalities to be able to have -- at least at a cheaper cost to have their signs prepared, rather than paying somebody else.

I mean, it's still a question of whether or not the Department of Transportation sign shop can really handle all

the work that may be given to them. They're not sure of that either, because they are working pretty well to capacity.

But this merely leaves an item open -- it's not mandatory that they buy from the State Department of Transportation sign shop. They can still buy from anybody they want. And whether or not the state Department of Transportation can actually be able to fulfill an order becomes another question which, you know, each municipality would have to work on their own.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Trunzo will continue to yield for, I think, just one more question.

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Do we have any estimate of how much they would anticipate to sell and, if so, what we do with that money?

SENATOR TRUNZO: No, not at this

point. I don't have any figures on that item.

All this does is just give them the authority to utilize the sign shop. Because right now the only ones that can utilize it is the Department of Transportation. Other municipalities cannot, or any other public subdivision cannot utilize the DOT sign shop. So this opens it up.

And again, it's not mandatory that they go to the DOT sign shop. It's a matter of, again, preferential treatment within their own municipality, whichever way they want to do it. It gives the Department of Transportation merely the authority to do this type of work for other subdivisions of government if they chose to do it.

SENATOR DOLLINGER: Okay, Mr. President. I think I understand Senator Trunzo to say that this bill does not require anybody to buy, this simply allows the Department of Transportation to enter into contracts with municipalities.

Could they also enter into contracts with other states if they could produce them for other states?

SENATOR TRUNZO: Well, right now I believe not. It's merely within -- they're only doing it within our local subdivisions, political subdivisions.

SENATOR DOLLINGER: So -- again, through you, Mr. President, so what this would do is -

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

SENATOR TRUNZO: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: -- attempt to consolidate the sign-making functions throughout New York State, or give us the opportunity to sell them to other municipalities throughout the state?

SENATOR TRUNZO: Correct.

SENATOR DOLLINGER: Thank you, Mr. President. I have nothing further.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect in 180 days.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1248, by Senator Larkin, Senate Print 5676A, an act to authorize the Commissioner of the Department of Transportation to transfer and convey.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Larkin, an explanation has been requested of Calendar 1248 by Senator Dollinger.

SENATOR LARKIN: Mr. President, this is a very simple bill. The property is owned by the Department of Transportation. And there are certain segments of the Stewart Airport that have been given to historical preservation.

In view of the fact that the state land is going to be transferred to a private entity, the Historical Society wishes to continue those properties on the side of the airport -- it's actually on Route 207. The

Historical Society will take the property, will maintain it at no cost to us. It's very important to the Orange County Historical Society.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. Preside nt, will Senator Larkin yield for a couple of questions?

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: This appears to be a wonderfully beneficial purpose to transfer this building.

My question is, is this a two-thirds bill that would require the assent of two-thirds of the Legislature, because we're actually transferring a state asset to a nonstate agency?

I think, Senator, just by way of explanation, that the State Constitution says

that before either the Senate or the Assembly -- because these are public assets, bought and paid for by the people of the State of New York, with their tax dollars -- before we can transfer those to some other entity which is not a governmental entity -- as I understand it, this is a historical society - my question is that the people of the State of New York, I believe back in the 1840s, put in a provision that said under those circumstances -

SENATOR LARKIN: I wasn't here, Richard. I don't know.

SENATOR DOLLINGER: Well, I didn't start my term before then either. But they put in a provision that says you need two-thirds approval.

Is this one of those instances where we need that?

SENATOR LARKIN: I don't think so, Richard. Because if these facilities are not transferred, the new owners of the land will demolish the buildings.

The Historical Society, which has monitored these buildings for the last twenty

years, would like to see them continue. So would we. But the new owner says he has no obligation to maintain them. The Historical Society has come up and said we'll take them, we'll refurbish them, and they will be there forever and ever.

I think this is a very good venture, rather than having the buildings demolished.

SENATOR DOLLINGER: Again, through you, Mr. President.

I want to make it clear to Senator Larkin, I agree with you completely. I think this is the right thing to do to preserve these buildings.

But my question -- again, through you, Mr. President -- is this a bill that needs the two-thirds vote? Because for the exact reason that we're giving this, something bought with taxpayer money, we're giving it to somebody who's going to use it for a good purpose. We don't want to interfere with that purpose. I'm going to vote in favor of this bill. So if we need two-thirds, you've got my vote to help get you there.

But this is an instance in which the State of New York, through its own taxpayers, have bought an asset and they're going to transfer it to something that is not a part of the State of New York. And the Constitution says that in those instances, we're going to require a higher level of votes to do it.

And my question is, is this one of those cases?

SENATOR LARKIN: I don't believe so, Richard. But I can't see why we couldn't get a hundred percent vote in this house.

But the other point about it is in the last paragraph, if you look on the bill there, we're saying if for some reason the Historical Society ceases to want to maintain it all, that building or that portion of it reverts back to the state.

SENATOR DOLLINGER: I appreciate Senator Larkin's point, Mr. President. And I want to make it again clear I don't think anybody on this side of the aisle -- or, for that matter, what appears to be a very meritorious bill, a bill that preserves a

building and an operation that has some historical significance in Senator Larkin's district. That seems to me to be a great thing to do, the right thing to do.

And there are times when we in the state of New York can say that even though these assets have been bought by our taxpayers, nonetheless we're going to decide that there's a beneficial way to transfer them to another entity that will take care of them and, frankly, relieve us of the maintenance cost and the upkeep cost, which is another good reason to transfer these properties.

But -- and I simply rise to make this point, Mr. President -- this is a bill which would require a two-thirds majority in this house, for the exact reason that I discussed with Senator Larkin. The people of this state put in their Constitution a provision that said in those instances in which we transfer state-purchased assets to nonstate entities, we want the elected officials to take an even closer look, to require a two-thirds majority.

This is one of the those instances.

I know Senator Larkin perhaps wasn't versed on this issue when I asked him. But if we run into other bills this year that deal with this question, it's my intention to raise this issue.

I would urge all of my colleagues on this side of the aisle to vote for this because it's a good idea. This is the right thing to do. But I think it's important to establish the proposition that this specific instance is one in which the people of the State of New York had said take a more careful look. When you take a careful look at this, it's justified.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1253, by Senator Rath, Senate Print 1290, Concurrent Resolution of the Senate and Assembly Proposing Amendments to Article 9 of the Constitution.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT MEIER: Senator Rath, an explanation has been requested of Calendar 1253 by Senator Dollinger.

SENATOR RATH: Yes, Mr. President.

Senator Dollinger, this bill will provide for amending the New York State Constitution, making compliance with new unfunded state mandates voluntary for local governments and school districts.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: This is the -- Senator Rath, I believe this is the unfunded-mandate bill that we've done other times.

Through you, Mr. President, if Senator Rath will yield for a couple of

questions.

ACTING PRESIDENT MEIER: Senator Rath, do you yield for a question from Senator Dollinger?

SENATOR RATH: Certainly.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Could you just give me, Senator Rath, a couple of the unfunded mandates that this Constitutional amendment would specifically prohibit us from imposing?

SENATOR RATH: I think we're talking right now prospectively, not retrospectively, Senator Dollinger.

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

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

SENATOR RATH: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Well -- and I appreciate that we're talking prospectively.

But obviously this bill originates in the notion that we've done something wrong in the past that we would like the people to prevent us from doing in the future. What is it that we've done wrong in the past that we shouldn't do in the future?

SENATOR RATH: Senator Dollinger, I -- let me give you some examples of what we hear when we go back home and talk to our businesspeople in our communities. The first thing they will say -- and they don't have any specifics either -- they'll talk about unfunded mandates.

And it has to do, I believe, with the confidence level that our businesspeople and our citizens have in relation to the fact that the state can do unto them without having them be willing to agree to what we say needs to be done unto them.

This would make it optional and voluntary for them to comply. The provision also puts in place a council that would mediate what might be discussions that we're trying to identify what an unfunded mandate was.

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

We have a bill on the calendar, 1255, Senator Farley's bill, which deals with the issue of vacation benefits. That is, they would say to employers throughout this state that if an employee leaves, then -- and they get vacation benefits, they could collect unemployment insurance while they're collecting their vacation and severance benefits.

Is that the type of unfunded mandate that this would abolish, that we couldn't pass those kinds of unfunded mandates against businesses?

SENATOR RATH: I think that there would have to be an issue-by-issue discussion of how that was going to be implemented. And I believe that the council that we refer to in this bill would be able to take that up.

SENATOR DOLLINGER: But -- again, through you, Mr. President -

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

SENATOR RATH: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: That mandate would apply to municipal employers as well; isn't that correct?

SENATOR RATH: I think the question that we're going towards is that we're not really trying to prohibit the New York State Legislature. We're giving the municipalities the option.

SENATOR DOLLINGER: Again, through you, Mr. President.

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

SENATOR RATH: Certainly.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Does that mean that we'd be in a position where if this Legislature passed a law our local communities wouldn't have to follow it?

SENATOR RATH: Did you come from a county Legislature, Senator Dollinger?

SENATOR DOLLINGER: Is Senator Rath asking me to yield, Mr. President?

SENATOR RATH: I'm asking you to -- if he would yield to a question.

SENATOR DOLLINGER: I'd be glad to yield while I've got the floor.

SENATOR RATH: Did you answer?

SENATOR DOLLINGER: The answer is yes, I did.

SENATOR RATH: To answer your question, then, as I looked through my bill packet and ran into a memorandum of -- a resolution, rather, from the Erie County Legislature, I noted that all of my colleagues on the Democrat side from that Legislature sent this through. And so I would think that they probably see some benefits, as many of us from every county Legislature across this -- I was going to say "country," but across this state have indicated that unfunded mandates are the bane of the existence of local governments.

The effort here, to try to get a handle on this while putting in a fail-safe by way of a council for review -- and judicial review beyond the council -- I think speaks to what we have talked about in western New York

so thoroughly, the opportunities that we need to be able to compete not only in New York State but throughout the United States and indeed globally, when we find our tax structure to be so -- so much of a disincentive.

And of course, the minute you start talking with local governments -- and I talk to a lot of them as chairman of the Local Government Committee -- the question is always two or three things, and right near the top of that list are unfunded mandates.

SENATOR DOLLINGER: Through you, Mr. President.

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: What would happen if we passed a law that said every county, such as you came from, as -- I came from the Monroe County Legislature, you came from the Erie County Legislature -- had to hold a referendum on its budget, a voter

referendum, which would mean they'd have to have a special election? Which at least in Monroe County probably costs, oh, a half a million or a million dollars. That was our mandate: before you raise your taxes, you have to have a referendum.

Under your bill, would that unfunded mandate for an election be subject to county choice?

SENATOR RATH: Senator Dollinger, I believe that if the county legislators felt that they wanted to make that decision, they would have to deal with their constituents on that kind of a level.

Because, frankly, I think we're coming to the point not only with county budgets but with school budgets and indeed the state budget as to what level of service do we expect and are we willing to pay for. And I believe that if we don't start to work with the electorate at the various levels that we deal with them, then the confidence and the trust that we expect as their representatives, as we represent them, will be missing. And I think you would find a lot of people who would

say "Just give me a chance to vote on that budget."

And this is that double-edged sword that cuts both ways, the sword that says we know best, let us do it for you, or the folks out there who are paying the bills saying, oh, no, no, we know what's best, we want to tell you.

And I think we have to enjoin that debate. I don't think we can ignore that and walk away from it anymore.

SENATOR DOLLINGER: Again, through you, Mr. President.

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

SENATOR RATH: Yes.

ACTING PRESIDENT MEIER: Senator Rath yields.

SENATOR DOLLINGER: Would your bill also apply -- would this Constitutional amendment also apply if this Legislature decided to take away the taxing power of a municipality? Would they have the choice whether to adhere to our bill or not?

For example, let's say we repeal

the commuter tax for the largest city in the state. That's the flip side of an unfunded mandate. That's telling them they can't tax people anymore. Would you leave that to the option of the City of New York as to whether or not that bill would apply to them?

Because under your logic, of course, local communities should have knowledge, input, understanding, the ability to say to the state Legislature, "Don't meddle in our affairs"; isn't that correct?

SENATOR RATH: I believe, Senator Dollinger, that the examples that you cited would not in my mind constitute unfunded mandates.

SENATOR DOLLINGER: Again, through you, Mr. President.

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: Suppose we told them that, instead of taking away their taxing power, that they had to pay for

something they didn't want to have to pay for? Your bill would apply in that case, wouldn't it?

SENATOR RATH: If there's something that we're telling them that they have to pay for and they are looking for the kinds of flexibility and the opportunity to say to their taxpayers "We don't need this, and we don't think we should cause your taxes to go up in order to pay for what the State of New York in its wisdom says we should be paying for," I think that's a compact between the local governments and their taxpayers.

SENATOR DOLLINGER: One final question, Mr. President, if -

ACTING PRESIDENT MEIER: Senator Rath, do you yield for one final question?

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DOLLINGER: This bill creates a conference on local mandates or a council on local mandates; isn't that correct?

SENATOR RATH: Yes, it does, Senator.

SENATOR DOLLINGER: And when bills get passed by this Legislature, that council would then entertain public criticism of them or comment on them; is that correct?

SENATOR RATH: They would, in my understanding of the council, be the recourse for debate as to what constitutes an unfunded mandate.

SENATOR DOLLINGER: And what is the power of the council if it determines that it is an unfunded mandate?

SENATOR RATH: The council then responds back to the state in relation to the definition. And it also would be subjected to judicial review by either the local government -- the local judge or the state judge, depending on what the issue was.

SENATOR DOLLINGER: And does your bill -- again, through you, Mr. President, just for clarification. Does your bill give the judiciary the power to say that it's an unfunded mandate and therefore it's not applicable unless the local community decides to take it?

SENATOR RATH: Let me check with

counsel on that power there.

The power -- counsel advises that yes, it gives the court the power to advise as to whether it is an unfunded mandate or not.

SENATOR DOLLINGER: And again, final question, Mr. President, just in the concept.

If they decide that it is an unfunded mandate, what happens then?

SENATOR RATH: Then the town or whichever the government might be has the opportunity to voluntarily comply or not.

SENATOR DOLLINGER: Okay. Thank you, Mr. President. I'll just address the bill for one quick second.

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: This is one of those bills that has a tremendous cachet among those of us in political life, but when you get right down to the nuts and bolts there's not a lot to it.

Senator Rath, I appreciate your comment about unfunded mandates. I've heard criticism of unfunded mandates till I'm blue

in the face, until I suddenly say "Which one?" It's almost like being at the kitchen table when I was a little kid and my mother used to say "Eat your food, there are people who are starving." And I would say "Who?"

Which one? Which unfunded mandate is this bill designed to cure? Where are all these unfunded mandates? And what I find is when you look at them, they're statewide policies that this Legislature said it was a good thing to do regardless of who paid for it.

And what I would be very leery to do if I were a Majority member -- I've never been a Majority member in this house. But if I were a Majority member, I'd be extremely leery before I gave to anyone -- whether it's a council on local governments appointed by the Senate and the Assembly or anyone else, I would be very reluctant to give the power to decide what's good public policy to anyone other than the people who are elected in this chamber.

Senator Rath, you properly point out that what can happen if a bill goes to the

council on unfunded mandates, the local communities can come in and complain. I would suggest that those local communities are best served by coming in here and complaining. And that if there are unfunded mandates -- and again, I'd point this out to everybody in the house, because it seems to me to be the one undisputable fact. All -- every unfunded mandate created by the State Legislature in the last 35 years has been endorsed by the Republican Majority. Not one has become law without the vote of everyone on that side of the aisle.

So we're back to that analogy I talked about yesterday. Remember I talked about Borrowers Anonymous, "Please stop me from the addiction of borrowing money"? Well, now we are in Mandates Anonymous. What we're saying is we've got all these horrible things we've told local governments to do, and please stop us from doing it in the future to the people of the state of New York, because we can't trust ourselves to decide what the right thing to do is.

Senator Rath, I appreciate this

bill. I understand what drives it. But when you peel it all away like the onion and you get right to the base, frankly there's not much there. And what you're in essence saying is that you don't trust yourselves.

I think the people of the State of New York can trust this Majority. If you pass an unfunded mandate, you ought to be criticized for it. If you don't pass them, you shouldn't be. Let's leave that power right here in this chamber. Let's not create another level of the government to review these, let's not create another council, let's not create another entity that will somehow tell this Legislature they're right or wrong. The people gave us that power. They trust our judgment.

And I agree with you, Senator Rath. If we pass too many unfunded mandates, they'll be calling your office, they'll be out in the polls voting against you and voting against me. That's where the power ought to be. That's where we ought to keep it.

This bill has a political cachet. When you peel it all down, it's -- really,

there's nothing there. And I think I trust this body to decide what an unfunded mandate is or it isn't, and I leave that judgment best where it should be, right here.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: To conclude the discussion, I don't see any other colleagues -- although there may. But the point -- one of the points that Senator Dollinger made a moment ago caused me to realize that I had neglected to say earlier that when this appears on the doorstep, if you will, of the local government, it does not preclude them from providing the service. But if it's an unfunded mandate, it has the State of New York paying for it. And I think that's where the rubber really hits the road on this one.

ACTING PRESIDENT MEIER: Senator Duane.

Senator Duane passes.

Senator Marchi.

SENATOR MARCHI: Mr. President, no, I think that Senator Dollinger has raised

a meritorious consideration. And there is a question -- I don't know whether this Constitutional amendment was in place when we provided for compulsory education. It's often been cited as an unfunded mandate, which we then began to implement either in satisfactory or unsatisfactory ways.

It became an issue, I remember, when Governor Dewey -- and I was not a member, but I had been counsel when they established a $2,000-a-year minimum salary for teachers throughout the state. And that came into play, and it was ultimately upheld.

It came into play again when they were shifting 12-hour days for emergency services to an 8-hour day. And that led to litigation.

Nevertheless, Senator Rath has suggested a methodology here that is worth exploring and advancing, which is to get in this on a more knowledgeable basis and more solid footing. I agree in substance with Senator Dollinger; if we pass it, there is a superior purpose served, and we indeed should have that become law. And it may create that

onus towards applying the money under circumstances.

But I believe that this is a positive step forward to at least putting it under the jeweller's eye and -- and give us a little more criteria that's solid and appropriate to the circumstances. So I support this bill, Senator.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Not Senator Hevesi, Mr. President.

ACTING PRESIDENT MEIER: I can tell you apart. You're the one with glasses.

SENATOR SCHNEIDERMAN: If the sponsor would just yield to a question, a few questions.

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SCHNEIDERMAN: Yes, thank you.

My question is if this bill were

enacted into law and we changed, for example, state requirements for water quality that was to be maintained by all the local governments of the state, would that constitute an unfunded mandate that counties and local governments could opt out of?

SENATOR RATH: If the dollars were required, I think that the discussion then would come back in relation to the public-safety responsibilities that we have as a government. And I think that the local government, if we changed that and upped the level of the -- that's what I assume you're saying, if we increased the level of responsibility for water quality and it cost the local government more money in order to implement those costs.

I think if the local government - beyond the safety question, beyond how safe is safe, then I think the discussion has to come in do you want to pay more money for -- let's say it was for adding fluoride or adding something else to the water so that everyone in the community would have it. I think that that should be a local decision.

SENATOR SCHNEIDERMAN: So under those circumstances, then, we could have different local governments in a checkerboard pattern, some enforcing higher standards and some enforcing lower standards as a result of this law; is that correct?

SENATOR RATH: If it's an unfunded mandate and we're beyond the health level, the criteria of health, I believe that the people of the various communities would make the decision that was appropriate. And there would need to have been a good deal of education and conversation with their local people in the meantime.

SENATOR SCHNEIDERMAN: And would the same apply -

ACTING PRESIDENT MEIER: You're asking Senator Rath to continue to yield?

SENATOR SCHNEIDERMAN: If the sponsor would continue to yield.

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Would the same applying to enforcement of the civil rights laws if we enacted new provisions of the civil rights laws that might require some expenditure of funds for enforcement? Is that also something that local governments could opt in or out of under this bill?

SENATOR RATH: The civil rights issue of this had not come into any of the discussions that we had had. Let me check with counsel and see if we have some thoughts.

Okay, one of the parts of the memorandum that was not just under my eye, if it's in relation to a federal law, no, it would not apply.

SENATOR SCHNEIDERMAN: I'm sorry, I'm not sure I understand.

If we enacted, just hypothetically, in the remote possibility, a civil rights law protecting people from discrimination based on sexual orientation, and that required additional expenditure of funds for enforcement -- state law -- would that be something that counties could opt out of and local governments could opt out of?

SENATOR RATH: The issue of doing this by state law rather than federal law - again, let me go back and double-check.

If the cost was, to a local government, an inordinate cost, the state can always go back and pay for it. If it's an unfunded mandate, found to be an unfunded mandate, the state wants it, it goes through the process with -- the court process that I explained a few minutes ago, the state would be responsible to pay for it.

SENATOR SCHNEIDERMAN: So if the sponsor would continue to yield.

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR SCHNEIDERMAN: Just to make sure I understand, in the absence of additional funds provided by the state, if we did change the civil rights law, different local governments could opt out under this provision; is that correct?

SENATOR RATH: They would have to

go back to their people and decide if they wanted to opt out.

SENATOR SCHNEIDERMAN: Okay, thank you.

On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: Thank you. I think that Senator Stafford spoke eloquently yesterday about how we shouldn't be creating new bureaucracies, new levels of government. And I find it somewhat remarkable today that we're proposing legislation that would create a whole new layer of government in between the state legislature and the local governments of the State of New York.

It is the -- it is -- we're elected by the same people that elect local governments. We're responsible to them in the same way the local governments are. I do not believe and I do not cede the title of being more fiscally responsible to any of the local governments that I represent.

I think it's our obligation as the State Legislature to take fiscal impact into

account, but I think this law would set up a very dangerous, unprecedented system allowing local governments to opt out in perhaps well-intentioned efforts to be more competitive or whatever they perceived it to be.

The fact of the matter is that local governments around the state now are providing a variety of services and enforcing lots of state laws. And I'm not sure how you would divide up what portion of the money they get from the state goes to what service and what doesn't.

I think that we have a system now that allows the state to set policy. The same people that elect the local governments elect us. If we are not providing the resources for proper enforcement, I think we're accountable in the same way the local government is accountable.

But the notion that the Majority all of a sudden wants to institute this layer of bureaucracy between the elected legislators of the State of New York and the local governments also elected by the people of the

State of New York, I find to be quite amazing. I think that this is something that even many of my pro-big-government constituents on the west side of Manhattan would find to be too much.

And I urge all to vote no against this bill.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Will the Senator yield, Mr. President, for -

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR LACHMAN: I understand what you're trying to do, as Senator Dollinger has intimated. And by and large, it could be a positive venture.

But have you considered, Senator Rath, the possibility of the diminishing of the authority of this body by eliminating any flexibility in this legislation -

SENATOR RATH: We -

SENATOR LACHMAN: -- the body of the State Legislature?

SENATOR RATH: We did check with the Attorney General and have an opinion that the -- it will constitute a restriction of the general legislative powers as well as the power of the Legislature pertaining to the appropriation and expenditures and use of monies.

Frankly, Senator, I think that that -- some of that is good. I think that limiting some of the powers is good. Having spent 17 years in a county legislature and no recourse, none, as to what we had to spend money on while the state was taking away revenue-sharing and we were still expected to provide the services, I think having a place to go and some way for relief, because the government being the closest to the people - which many of us use as a mantra, being the government which is best for the people -- the frustration in local governments on this issue is very, very measurable throughout the state.

SENATOR LACHMAN: Mr. President, through you, may I continue? Senator Rath?

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

SENATOR RATH: Surely.

SENATOR LACHMAN: Thank you kindly.

I would agree with you, Senator Rath, that some of it is good. But as I read the bill and as I understand the bill, some of it might not be good in the future, and at the same time we eliminate the flexibility that we have now where the legislator -- the Legislature and the legislators are the dominant focus here so that we can step in when some of these voluntary mandates appear not to be good.

So what I'm saying is I would agree with you on some of this, but I really can't agree that -- a sweeping measure such as this in my opinion diminishes the authority, if I can say it, of this august body, the New York State Senate.

SENATOR RATH: The situation of this Legislature needing to send the dollars if it sends the responsibility has been something that I have been asking for for

probably half of my adult life, my adult public life. And frankly, Senator, if this should become the law of the State of New York, I'm sure that, as some of my colleagues on the other side have indicated, there would be challenges to this.

And frankly, I think that that would be a good thing. Because I think the people need to get a little more involved with their government and making some decisions in relation to the kinds of levels of service that they demand and what they're willing to pay for through their tax dollars.

And our taxing ability is so vast compared to what local governments are. They go back to the property tax, and immediately it becomes counterproductive, because businesses, et cetera -- coming from where I come from in the state may have something to do with my opinions on this issue.

But frankly, I would welcome interaction with the electorate at all levels -- not only our level, but making and causing the people in county legislatures and town boards and village councils to be part of

the discussion of what they expected from us and what they expected to be paid for and what their people expect by way of services.

SENATOR LACHMAN: Mr. President, one final question, if Senator Rath yields.

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

SENATOR RATH: Sure.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR LACHMAN: I'm listening to what you're saying, Senator Rath, and I agree with a great deal of what you're saying in terms of allowing these local mandates. But I foresee the possibility, even the probability, that this Legislature might find great difficulty in passing a bill that is so ironclad that it removes our involvement completely.

SENATOR RATH: I think the flip side, Senator, of what you're saying is that this Legislature would find itself in a position of having so much pressure out there brought to bear by the electorate that the circumstances that you point out might

become -- yes, that could happen.

SENATOR LACHMAN: Or the need that we foresee that some legislation on the local arena might not be in consonance with the goals of this State Legislature.

SENATOR RATH: Oh, yes.

Senator, I think we can pursue this intellectual debate, because it's very interesting, yes.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Briefly, I wanted to commend Senator Rath for her noble intention of trying to protect local governments and municipalities from the pain which they feel from time to time as a result of actions which we take.

And without reiterating many of the arguments that have been made here, I oppose this legislation on a few grounds. One, I'm very leery of this additional bureaucratic

mechanism that we're going to put in place. We are the elected representatives of the people. There doesn't need to be this intermediary between local governments and state government; we are that intermediary.

And to the extent that representatives of local governments feel that they have been treated unfairly by the state on this issue, they should make their voices heard in this body and prevent such pain from being felt by their constituents.

Secondly, I'm very concerned, as Senator Schneiderman pointed out, with the potential that we have here for all kinds of strange results coming from the voluntary implementation once this council would have deemed it to be an -- any provision to be an unfunded mandate. And particularly with the civil rights issue, you could have all kinds of checkerboard, as he said, enforcement, which is absolutely anathema to what we want to do here.

And, thirdly, who knows what could be perceived as an unfunded mandate? What this opens the door to really is something

that we all need to be concerned with.

And just finally, on the concept of unfunded mandates in and of itself, municipalities are a creation of the state - the State Legislature, the State Constitution. And I daresay, as strange as this may sound, that if we choose in this house, in the Assembly, with the consent of the Governor to require a municipality, a local government to fund something that we require and don't provide the funding for, that we should have the right to do that. Period. Flat out.

And that if this was to become law, that we will have severely restricted the power of this body in ways that I don't think we can even conceive of now, that will tie our hands as we are trying to implement policies that are beneficial to the state.

So just on the concept of unfunded mandates, while we need to be very careful in what we do in causing adverse impacts for local governments and potentially forcing them to raise taxes or reduce their own spending to contend with what we do here, that's not in and of itself reason to restrict the power of

state government to impose those mandates.

And so for that reason, for the other reasons that have been articulated, I oppose this legislation.

But I do think that Senator Rath brings to our attention and raises our level of consciousness about the need to not unfairly impact local governments. It's something that we certainly should be cognizant of, and I wish that there were some way to strike a balance between what we're trying to do here and the problem that exists.

Unfortunately, as often exists in government, a piece of legislation that you see that is well-intentioned may have adverse impacts in and of itself. And therefore, I am not in a position to vote in favor of this bill.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. Preside nt, I rise for the second time on this bill.

Just for the edification of my colleagues -- and I appreciate their

comments -- I'd point out, Senator Rath, that there are three bills that you could vote no on to prevent unfunded mandates.

If you look at Senator Spano's bill that allows people to buy into a previous year of their retirement system, the City of New York's put in a memorandum that says this is going to increase the administrative cost and increase the contribution cost. That is an unfunded mandate. You've got the perfect opportunity to put your Constitutional amendment in effect. We don't even need the people's authority. You can do it now. Vote no.

And the last two bills on the calendar, Senator Morahan's bills, both of which deal with disabled children and social service groups -- that require them in one case, even though they age out, require the social service organizations to continue to allow them to go to school, that's an unfunded mandate. Vote against that. Or if you want to do it with the medical-assistance payments for residents of certain adult-care facilities, requiring the counties to pay for

it, vote against that.

We have the perfect opportunity to end unfunded mandates without the people's approval. Vote no.

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

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1253 are Senators Connor, Dollinger, Duane, Hevesi, Lachman, Montgomery, Onorato, Paterson, Santiago, Schneiderman, Seabrook, Smith, and Waldon. Ayes, 4O. Nays, 13.

ACTING PRESIDENT MEIER: The resolution is adopted.

THE SECRETARY: Calendar Number 1255, by Senator Farley, Senate Print 2214, an act to amend the Labor Law.

SENATOR FARLEY: Lay that aside for the day.

ACTING PRESIDENT MEIER: Lay the bill aside for the day at the request of the sponsor.

THE SECRETARY: Calendar Number 1260, by Senator Spano, Senate Print 4115, an

act to amend Chapter 666 of the Laws of 1990, amending the Administrative Code of the City of New York.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Spano, an explanation has been requested of Calendar 1260 by Senator Dollinger.

SENATOR McGEE: If you could just read the last section and call the roll for the purposes of allowing Senator Lack to vote.

ACTING PRESIDENT MEIER: Without objection, the Secretary will call the roll.

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

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Lack.

SENATOR LACK: I vote aye, Mr. President.

SENATOR McGEE: Withdraw roll call.

ACTING PRESIDENT MEIER: Roll call will be withdrawn.

Senator Spano.

SENATOR SPANO: Thank you,

Mr. President.

This bill, that was introduced at the request of the Metropolitan Police Conference, extends the current provisions of law which allow certain retirees to earn retirement credit from a second career in a New York public retirement system. The bill also allows retirees to earn retirement credit in the same retirement system from which they originally entered.

SENATOR DOLLINGER: If Senator Spano will yield to a question.

ACTING PRESIDENT MEIER: Senator Spano, do you yield?

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: I noted, Senator Spano, your careful choice of words when you used the phrase "allows." Doesn't this bill mandate that local communities -- if the officer accepts it, doesn't it mandate that they do, that they allow them to participate in two plans?

SENATOR SPANO: Yes, it does.

SENATOR DOLLINGER: And through you, Mr. President, doesn't this bill -

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

SENATOR SPANO: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Doesn't this bill increase the cost to the municipalities that are required to do that?

SENATOR SPANO: We don't have a fiscal note that was requested with this. But -- the fiscal note that was put as a part of the bill, sorry, has no costs associated with it.

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

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

SENATOR SPANO: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: If someone moves from one pension plan to another, elects to do that, wouldn't it be safe to assume that

they're doing it because it's more beneficial for them, they're going to get greater benefits from it, and that someone -- the municipality, the county, the school district -- would have to pay for those benefits?

SENATOR SPANO: All this bill would do, Senator Dollinger, would be for an individual -- for instance, if someone is a New York City correction officer or a police officer, put their time in the system, retired after their twenty years in the system, decided to continue a career of public service and, say, become a teacher in the city of New York, it would allow them to collect their benefits from the first system and it would allow them to continue to collect the benefits from the additional employment that they'd be involved in.

SENATOR DOLLINGER: Mr. Pre sident, doesn't -

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

SENATOR SPANO: Yes, I do.

ACTING PRESIDENT MEIER: He

yields.

SENATOR DOLLINGER: Doesn't it also allow an employee to get the benefits of both pension systems? He can get the richer supplemental benefits in one and the greater pay in the other?

SENATOR SPANO: Yes, it would. If they put their time in the system -- for instance, if -- I think what you're referring to is the Variable Supplements Fund. The Variable Supplements Fund would come to the benefit of the police officers of the City of New York once they put their time in.

And there would be no reason, in my opinion, to penalize employees of the City of New York based solely because they're going to move from one public benefit, one public employment to another. If they put their time in and they're entitled to that Variable Supplement Fund or their retirement as a police officer, why not -- why should we take that away from them?

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

ACTING PRESIDENT MEIER: Senator

Spano, do you continue to yield?

SENATOR SPANO: Yes, I do.

ACTING PRESIDENT MEIER: He yields.

SENATOR DOLLINGER: Senator, the City of New York is against this bill. The Mayor's office and the City of New York is against this bill. Is that correct?

SENATOR SPANO: Yes, that's correct.

SENATOR DOLLINGER: And are they against the bill because it tells them they have to do something they don't want to do and the State of New York is not going to allow them the funding to do that? Is that correct, that's the gist of their complaint?

SENATOR SPANO: Let me just review that memo here.

Senator Dollinger, frankly, you're correct. I mean, that's the basis for their opposition.

I do not agree with their opposition to this bill, for the purposes that I explained to you, that I feel no reason to penalize members of -- state employees or

government employees if they choose to continue a career in public service. That while there may be a very small cost to this bill, it was so minuscule that it was not even included in the fiscal note that was presented to us.

SENATOR DOLLINGER: Through you, Mr. President. One final question for Senator Spano.

ACTING PRESIDENT MEIER: Senator Spano, do you yield for another question?

SENATOR SPANO: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: I apologize, because this a hypothetical question. If Senator Rath's bill about no unfunded mandates were the law in this state, this bill wouldn't apply in the City of New York, would it, because as the Mayor of the City of New York is opposed to it, this would be an unfunded mandate and the Mayor of City of New York would be able to say "We don't want to have this bill be enforced"? Is that a fair statement?

SENATOR SPANO: I'll give you a hypothetical answer to your hypothetical question, Senator Dollinger -

SENATOR DOLLINGER: That's only appropriate, Mr. President.

SENATOR SPANO: I think that there are times when the Mayor of the City of New York or local mayors or the Conference of Mayors have opposed cost-of-living adjustments and many other items that have been presented here.

And that this bill is so inconsequential that it would not even qualify as a mandate against that City of New York.

SENATOR DOLLINGER: Thank you, Mr. President. I appreciate Senator Spano's candid responses to my questions.

I would just point out to every member of the chamber, you don't like unfunded mandates? This is a little one. It may not be a big one -- this is a little one -- but this is clearly an unfunded mandate. Do you see anything in this bill that says we -- we will raise, through our tax dollars, to pay for the administrative cost or the increased

cost of the contributions to pensions in New York City? Is there anything that says we'll pay for that? No, we're not paying for it. So it's clearly unfunded. It's going to be paid for by local property-tax payers.

Senator Spano may be correct. It may not be a big load. But this is how you start down the road to those big unfunded mandates. You do it with a little step here, a little step there, a couple of requirements that people can jump into other pension systems, a little extra contribution for the people of the City of New York, pass it on to their taxpayers. We're telling them what to do.

I'm astounded that Senator Rath isn't still in the chamber, because I would repeat her words, word for word. And I think what she said was, "We don't know what the right thing to do is for every municipality. Let them do it themselves. They should have the ability to sit there and make these decisions."

Well, here we are in Albany, standing here, deciding that this is the right

thing to do for the City of New York when the Mayor says "It's not what we want."

I'm going to vote against this bill purely because of the inconceivability that I would have voted no on the last bill and that I would vote yes here. I don't know how anybody on the other side of the aisle could reconcile those two votes.

Here's an unfunded mandate. Senator Spano admits it's one. We don't need a Constitutional amendment. We don't need Senator Rath's bill. We should just pull that bill back and throw it in the trash can. We've got a chance to do it right now. Let's do it, vote against an unfunded mandate. Here's your chance, three for a quarter. We've got two others on the calendar that you'll get a chance to vote against as well.

If you believe that we should be paying for what we want people to do, this bill is wrong-headed, because this bill says you've got to do it and you've got to pay for it. It's a little tiny step down that road to unfunded mandates that one vote ago we said we shouldn't go down that road.

I'm not going down that road.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, just on the bill. I don't have any questions.

ACTING PRESIDENT MEIER: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: Yes. I just want to make one observation, or a couple of observations.

One, this bill seems to really try to address the issue of police officers who decide to go into the school system. And we did pass legislation about a month ago which would allow them to do that.

It's my understanding that one of the reasons that we did not have them in - in -- coming into schools prior to the legislation that we passed was because we wanted to avoid the -- essentially, the double-dipping, as Senator Dollinger has pointed out. So we corrected that. They could go in, they could collect a salary at the same time that they collect a pension and

so forth.

But we do understand now that 60 percent of the police officers -- at least 60 percent, as far as we know -- live outside of the city of New York. That's one.

Two, we just passed legislation that could forever eliminate almost a half a billion dollars from the city's budget. So we will not have that money, based on the commuter-tax repeal that was passed by this Legislature. So now we have many of those same commuters coming back to say "We want a second pension out of New York City."

Now, I just think that we in the city of New York do not deserve to be treated this way by the state where we, as citizens of this city, make a tremendous contribution over and above what we receive back in terms of revenue from the state. So I just think this is totally unfair. It is unreasonable. And we should not be doing this to the city, which is the -- after all, is the economic engine of the state.

So I certainly hope that my colleagues will vote against this, because

this is simply one more raid on New York City's revenue and our budget.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

Oh, I'm sorry. Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. If the sponsor will yield to a few brief questions.

SENATOR SPANO: Yes.

SENATOR SCHNEIDERMAN: I'm not completely clear on what the significance of the language of the term "reactivation" is in this legislation.

Do I understand correctly that if you transfer into a second retirement system you would get all the benefits of that second system but then be able to return to the first system if additional benefits were conferred in your first retirement system?

SENATOR SPANO: The benefits that you rightfully earn under that first system you would continue to receive. Yes, Senator.

SENATOR SCHNEIDERMAN: So -- but

if -- if the sponsor will continue to yield.

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

SENATOR SPANO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: If there were -- if there was a raise granted or something in the second system, you could take that benefit. And then if there was a subsequent modification of the package of benefits in the first system, after - subsequent to the date of retirement, would you be able to go back and regain that benefit under this bill?

SENATOR SPANO: No, you would only get your benefits that were calculated on the date of retirement.

SENATOR SCHNEIDERMAN: But if the system was modified so that all retirees under System Number 1, the benefits changed, there was some additional improvement in the system, would that be possible if -- "reactivation" suggests you get back into that system as

anyone who is actively in the system would be.

SENATOR SPANO: It all depends on how the modification was presented. If we grandfathered in those employees, then they would be covered.

SENATOR SCHNEIDERMAN: So if you were grandfathered in, if all employees were grandfathered in, you could return from System 2 to System 1 and get benefits that were granted subsequent to your retirement?

SENATOR SPANO: That's right.

And what we're doing, Senator Schneiderman -- just to clarify, Mr. President -- is back in 1990, in Chapter 666 of 1990 what we did was allow for employees of the City of New York who transferred from a New York City retirement system to a state retirement system to be able to get this benefit.

So the only difference here is that what we're presenting is the same level of protection to employees in the City of New York who changed from one occupation to another within the New York City system. Which just addresses an inequity in Chapter

90, which just included those employees who went from the city to the state.

SENATOR SCHNEIDERMAN: And if the sponsor will continue to yield.

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR SCHNEIDERMAN: Is this - is this not something that the government of the City of New York could address on its own or through a request to the Legislature for modification?

SENATOR SPANO: This change requires us to change the Administrative Code, which requires a state statute.

SENATOR SCHNEIDERMAN: But the - at several points in this session as it's transpired so far, we've seen that we attempt to respond to requests from local governments. This is something that the City of New York opposes.

Is that -- has the administrative cost to the City of New York been calculated

or taken into account for this change in legislation?

SENATOR SPANO: I don't have an accurate answer for you. But from what I understand, it's a very small number of employees that would be impacted with the passage of this legislation. And it would really not be a tremendous amount of money to -- in terms of administrative costs at all.

And if it were, they would, in their memo of opposition, would be stating the cost, the excess cost that would result from the passage of this.

SENATOR SCHNEIDERMAN: Thank you, Mr. President. On the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I appreciate the sponsor's answers.

I do think that while we don't have a specific cost, the memo in opposition from the city does cite the substantial administrative burden that this would impose.

And I think the combination of bills that have been discussed here already

today -- Senator Rath's bill on unfunded mandates and Senator Montgomery's reference to the repeal of the commuter tax -- really says everything you need to see as a legislator from the city of New York in order to realize that you have to vote against this piece of legislation.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect September 1, 1999.

ACTING PRESIDENT MEIER: Call the roll.

Hold it -- hold it, Mr. Secretary.

SENATOR MONTGOMERY: Slow roll call, please.

ACTING PRESIDENT MEIER: More than five members have arisen. Mr. Secretary -

SENATOR McGEE: Would you ring the bells, please?

ACTING PRESIDENT MEIER: Ring the bells.

THE SECRETARY: Senator Alesi.

SENATOR ALESI: Yes.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, with the consent of the Majority, permit me to withdraw the slow roll call.

ACTING PRESIDENT MEIER: Without objection, slow roll call is withdrawn.

The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1260 are Senators Breslin, Connor, Dollinger, Duane, Gentile, Hevesi, Lachman, Montgomery, Onorato, Schneiderman, Smith, and Waldon. Ayes, 42. Nays, 12.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1268, by the Committee on Rules, Senate Print 5627, an act to amend the Tax Law, in relation to extending.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Skelos, an explanation has been requested of

Calendar 1268.

SENATOR SKELOS: This extends the sales tax in Nassau County for a period of two years. There has been a home rule request received by the Senate.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: I imagine Senator Skelos would yield for a question.

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

SENATOR SKELOS: Yes.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator, I'm sorry, I'm just a little unclear. Who is the sponsor of this?

SENATOR SKELOS: Committee on Rules.

SENATOR PATERSON: Ah, Senator Rules. Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR McGEE: Mr. President.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: There will be -

ACTING PRESIDENT MEIER: Can we finish the roll call? And then we'll take care of that.

THE SECRETARY: Ayes, 52. Nays, 2. Senators Dollinger and Gentile recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee.

SENATOR McGEE: Mr. President, there will be an immediate meeting of the Rules Committee in the Majority Conference Room, please.

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

THE SECRETARY: Calendar Number 1271, by Senator Marcellino, Senate Print

5657A, an act to amend Chapter 600 of the Laws of 1993.

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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR McGEE: Call up Calendar Number 972, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 972.

THE SECRETARY: Calendar Number 972, by Member of the Assembly Smith, Assembly Print 7135A, an act to amend Chapter 332 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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee, there's some housekeeping at the desk. Would you like us to move to that?

SENATOR McGEE: Yes.

ACTING PRESIDENT MEIER: The Secretary will return to the order of motions and resolutions.

The Chair recognizes Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Maziarz, on page number 33 I offer the following amendments to Calendar Number 849, Senate Print Number 5184, 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 FUSCHILLO: On behalf of Senator LaValle, Mr. President, on page 13 I offer the following amendments to Calendar Number 403, Senate Print Number 2709, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator LaValle, on page number 24 I offer the following amendments to Calendar Number 673, Senate Print 2658A, and ask that said bill retain its place on Third Reading Calendar.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Mr.

President, I wish to call up Calendar Number 346, Assembly Print Number 7265.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 346, by Member of the Assembly Weinstein, Assembly Print 7265A, an act to amend the Estates, Powers and Trusts Law.

SENATOR FUSCHILLO: I now move to reconsider the vote by which the Assembly bill was substituted for this bill, Senate Print Number 3393A, on June 3rd.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I now move that Assembly Bill Number 7265 be committed to the Committee on Rules and the Senate bill number be restored to the order of Third Reading Calendar.

ACTING PRESIDENT MEIER: So ordered.

SENATOR FUSCHILLO: Mr. Preside nt, I now offer the following amendments.

ACTING PRESIDENT MEIER: Amendm ents received.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Goodman, I wish to call up Senate Print Number 4153, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1021, by Senator Goodman, Senate Print 4153, an act to amend the Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: Mr. Preside nt, I now move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: Senator Fuschillo, the bill will be restored to the Third Reading Calendar. It will have its third reading at this time.

The Secretary will read.

THE SECRETARY: Calendar Number 1021, by Senator Goodman, Senate Print 4153, an act to amend the Tax Law and the Administrative Code of the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

I'm sorry, there's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Seabrook.

SENATOR SEABROOK: Yes, Mr. President. With unanimous consent, I'd

like to be recorded in the negative on Calendar 1260.

ACTING PRESIDENT MEIER: Without objection, Senator Seabrook will be recorded in the negative on Calendar 1260.

Senator McGee.

SENATOR McGEE: The Senate will stand at ease pending the return of the Rules Committee, Mr. President.

ACTING PRESIDENT MEIER: The Senate will stand at ease pending the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 12:35 p.m.)

(Whereupon, the Senate reconvened at 12:45 p.m.)

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, offers up the following bills directly for third reading:

Senate Prints 2551C, by Senator Trunzo, an act to amend the Education Law;

2584, by Senator Nozzolio, an act to amend the Correction Law and the Penal Law;

3110A, by the Senate Committee on Rules, an act to amend the Tax Law;

3136, by Senator Leibell, an act to amend the Retirement and Social Security Law;

3186, by Senator Saland, an act to authorize the Town of Poughkeepsie;

3831, by Senator Stafford, an act to amend the Executive Law;

3910, by Senator Nozzolio, an act to amend the Correction Law;

4474B, by Senator Marchi, an act in relation to authorizing;

4475, by Senator Marchi, an act in relation to authorizing;

4597A, by Senator Hannon, an act to amend the Public Health Law;

4619A, by Senator Kuhl, an act authorizing the transfer and conveyance;

4624, by Senator Marchi, an act to amend the Public Authorities Law;

4662, by Senator Hannon, an act to amend Chapter 535 of the Laws of 1983;

5281, by Senator Farley, an act to amend the Banking Law;

5339, by Senator Leibell, an act to amend the General Municipal Law;

5399, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5578, by Senator Seward, an act to amend the Insurance Law;

5589, by Senator Marchi, an act to amend the Education Law;

5620, by Senator Stachowski, an act to authorize the City of Buffalo;

5645A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5730, by Senator Fuschillo, an act in relation to authorizing the BOCES;

5741, by the Committee on Rules, an act to amend the Insurance Law;

5743, by Senator Saland, an act to amend the Penal Law;

5751, by Senator Saland, an act to amend the Vehicle and Traffic Law;

5769A, by Senator Morahan, an act to amend the General Municipal Law;

5788, by Senator McGee, an act to amend Chapter 533 of the Laws of 1993;

5792, by Senator Trunzo, an act to amend the Vehicle and Traffic Law;

5799, by Senator Morahan, an act to amend the Education Law.

All bills directly for third reading.

ACTING PRESIDENT MEIER: Senator McGee.

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

ACTING PRESIDENT MEIER: All in favor of accepting the report of the Rules Committee signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

report of the Rules Committee is accepted.

All bills directly for third reading.

SENATOR McGEE: Mr. President, can we please go to motions and resolutions.

ACTING PRESIDENT MEIER: Motions and resolutions.

Senator McGee.

SENATOR McGEE: Mr. President, on behalf of Senator Bonacic, on page number 23 I offer the following amendments to Calendar Number 651, Senate Print Number 2016, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR McGEE: On behalf of Senator LaValle, on page number 46 I offer the following amendment to Calendar Number 1068, Senate Print Number 5206A, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT MEIER: Amendments received, and the bill will retain its

place on the Third Reading Calendar.

SENATOR McGEE: Mr. President, are there any substitutions at the desk?

ACTING PRESIDENT MEIER: Yes, there are.

The Secretary will read the substitutions.

THE SECRETARY: Senator Hannon moves to discharge, from the Committee on Rules, Assembly Bill 8238 and substitute it for the identical third reading, 1290.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator McGee.

SENATOR McGEE: Mr. President, at this time may we please adopt the Resolution Calendar.

ACTING PRESIDENT MEIER: The motion is to adopt the entire Resolution Calendar. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolutions are adopted.

Senator McGee.

The Senate will stand at ease temporarily.

(Whereupon, the Senate stood at ease at 12:50 p.m.)

(Whereupon, the Senate reconvened at 12:53 p.m.)

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: Mr. President, can we please take up the Noncontroversial Calendar Number 1.

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

THE SECRETARY: Calendar Number 1274, by Senator Trunzo, Senate Print 2551C, an act to amend the Education Law.

ACTING PRESIDENT MEIER: The bill is high. Laid it aside.

THE SECRETARY: Calendar Number 1279, by Senator Nozzolio, Senate Print 2584, an act to amend the Correction Law and the

Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1280, by the Committee on Rules, Senate Print 3110A, an act to amend the Tax 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, 53. Nays, 2. Senators Dollinger and Gentile recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1281, by Senator Leibell, Senate Print 3136, an act to amend the Retirement and Social Security Law.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1282, by Senator Saland, Senate Print 3186, an act to authorize the Town of Poughkeepsie, in the County of Dutchess.

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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1283, by Senator Stafford, Senate Print 3831, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 12. This act shall take effect January 1st.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1284, by Senator Nozzolio, Senate Print 3910, an act to amend the Correction Law, in relation to conforming.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1285, by Senator Marchi, Senate Print 4474B, an act in relation to authorizing the City of New York.

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

Read the last section.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1286, by Senator Marchi, Senate Print 4475, an act in relation to authorizing the City of New York.

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

Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1287, by Senator Hannon, Senate Print 4597A, an act to amend the Public Health Law and the Executive Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1288, by Senator Kuhl, Senate Print 4619A, an act authorizing the transfer and conveyance.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1289, by Senator Marchi, Senate Print 4624, an act to amend the Public Authorities Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1290, substituted earlier today by the Assembly Committee on Rules, Assembly Print 8238, an act to amend Chapter 535 of the Laws of 1983.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1291, by Senator Farley, Senate Print 5281, an act to amend the Banking Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. 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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1292, by Senator Leibell, Senate Print 5339, an act to amend the General Municipal Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

1293, by Senator Marcellino, Senate Print 5399, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1294, by Senator Seward, Senate Print 5578, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 1295, by Senator Marchi, Senate Print 5589, an act to amend the Education Law.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1296, by Senator Stachowski, Senate Print 5620, an act to authorize the City of Buffalo, County of Erie.

ACTING PRESIDENT MEIER: Read the last section.

There's a home rule message at the desk. Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1297, by Senator Marcellino, Senate Print

5645A, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: The bill is high. Lay it aside.

The Secretary will call the roll on reconsideration with regard to Calendar Number 1294.

SENATOR McGEE: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Watch it, Senator McGee.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

SENATOR McGEE: Lay the bill aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1298, by Senator Fuschillo, Senate Print 5730, an act in relation to authorizing the BOCES second supervisory district.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1299, by the Committee on Rules, Senate Print 5741, an act to amend the Insurance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1300, by Senator Saland, Senate Print 5743, an act to amend the Penal Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1301, by Senator Saland, Senate Print 5751, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2 -

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1302, by Senator Morahan, Senate Print 5769A, an act to amend the General Municipal Law.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1303, by Senator McGee, Senate Print 5788, an act to amend Chapter 533 of the Laws of 1993.

SENATOR McGEE: Lay it aside.

ACTING PRESIDENT MEIER: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1304, by Senator Trunzo, Senate Print 5792, an act to amend the Vehicle and Traffic Law.

SENATOR McGEE: Lay it aside.

ACTING PRESIDENT MEIER: The bill is high. Lay it aside.

THE SECRETARY: Calendar Number 1305, by Senator Morahan, Senate Print 5799, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee, that completes the reading of the noncontroversial calendar.

SENATOR McGEE: Mr. President, will you call up Calendar 706, please.

ACTING PRESIDENT MEIER: Back to the regular calendar.

The Secretary will read Calendar 706.

THE SECRETARY: Calendar Number 706, by Senator Spano, Senate Print 4603, an act to amend the Workers' Compensation Law and the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Spano, an explanation has been requested of Calendar 706 by Senator Paterson.

SENATOR SPANO: Mr. President, this bill provides that the State Insurance Fund would have the authority to contract with a PPO, a preferred provider organization, to deliver workers' comp medical services.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, would the Senator yield for a question?

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

SENATOR SPANO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Senator Spano, through the President, do the trial lawyers have a position on this bill?

SENATOR SPANO: I understand that we -- we do not have a memo from the Trial Lawyers Association. The only memo that we've received in opposition to this has been from a group called the Committee for Workers' Compensation Reform, which may include some of those trial lawyers.

And, Senator, we didn't receive a memo, that was a verbal -

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

SENATOR SPANO: Yes.

ACTING PRESIDENT MEIER: Senator Spano continues to yield.

Senator Paterson.

SENATOR PATERSON: Senator, I guess -- and I noticed that memo as well, and that's what brought me to that question.

I guess there's a concern as to what the value would be in having insurance companies being put in the position where they have some jurisdiction or control over what happens to the workers, since it's not exactly in their interest. Do you think that adversely affects the bill, that concern?

SENATOR SPANO: The private insurance companies would have this. All this does is put this under the -- coverage under the State Insurance Fund.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. Thank you, Senator Spano.

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: Those recorded in the negative on Calendar Number 706 are Senators Connor, Dollinger, Duane, and Paterson. Ayes, 51. Nays, 4.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee.

SENATOR McGEE: Mr. President, will you please go to the controversial reading of the calendar, please.

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

THE SECRETARY: Calendar Number 1281, by Senator Leibell, Senate Print 3136, an act to amend the Retirement and Social Security Law.

SENATOR DUANE: Explanation.

ACTING PRESIDENT MEIER: Senator Duane, we're trying to find the sponsor, if you'd indulge us a second.

SENATOR McGEE: Lay the bill

aside.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

The Secretary will continue to read the calendar.

THE SECRETARY: Calendar Number 1284, by Senator Nozzolio, Senate Print 3910, an act to amend the Correction Law, in relation to conforming.

SENATOR DUANE: Explanation.

ACTING PRESIDENT MEIER: Senator Nozzolio, an explanation has been requested by Senator Duane with regard to Calendar 1284.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President, my colleagues, this measure provides the same type of liability exposure for those employees of the Department of Office of Mental Health who are working in Department of Correction facilities as those who are working in Department of Correction facilities have.

The OMH employees working in their normal course of duty in other OMH facilities have liability that is not limited. That in

effect, the Corrections Department has other certain standards of liability, so that when an OMH employee is working in a correctional facility, he or she should certainly have the same type of protection or limits of exposure to liability than their coworkers.

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, 54. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Paterson, why do you rise?

SENATOR PATERSON: Mr. President, a moment ago we acted on Calendar Number 1287, by Senator Hannon. Is that bill out of the house? Otherwise, might we reconsider the vote and -

ACTING PRESIDENT MEIER: The bill has left the house, Senator.

SENATOR PATERSON: The bill has left the house?

ACTING PRESIDENT MEIER: Yes, Senator Paterson.

SENATOR PATERSON: It's in Sheboygan? Thank you.

ACTING PRESIDENT MEIER: The Secretary will continue to read the calendar.

THE SECRETARY: Calendar Number 1285, by Senator Marchi, Senate Print 4474B, an act in relation to authorizing to City of New York to discontinue the use as parkland.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1286, by Senator Marchi, Senate Print 4475, an

act in relation to authorizing the City of New York.

SENATOR PATERSON: Explanation.

SENATOR McGEE: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number 1294, by Senator Seward, Senate Print 5578, an act to amend the Insurance Law, in relation to eligibility.

SENATOR McGEE: Lay the bill aside for the day.

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

THE SECRETARY: Calendar Number 1295, by Senator Marchi, Senate Print 5589, an act to amend the Education Law, in relation to courses of instruction.

SENATOR DUANE: Explanation.

SENATOR McGEE: Lay the bill aside for the day, please.

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

THE SECRETARY: Calendar Number

1300, by Senator Saland, Senate Print 5743, an act to amend the Penal Law, in relation to assault within Office of Children and Family Services facilities.

SENATOR DUANE: Explanation.

ACTING PRESIDENT MEIER: Senator Saland, an explanation has been requested of Calendar Number 1300.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, what this bill proposes to do is to elevate to the status of a Class D felony the type of conduct which currently is treated as a Class D felony where it occurs within a correctional facility. This particular bill proposes that where it occurs in a facility maintained by the Office of Children and Family Services, what we previously called DFY, where a -- an employee of the department is seriously injured or is caused physical injury with intent to cause such injury, that the perpetrator of that incident would in fact now not be charged with a Class A misdemeanor, as he or she would currently be under the existing law, but with

a D felony.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you. Would the sponsor yield to some questions?

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you, Mr. President.

Is this bill geared towards juvenile offenders?

SENATOR SALAND: Well, by definition, if we're talking the Office of Children and Family Services, we are talking substantially about people who have juvenile status.

SENATOR DUANE: Is there -- if the sponsor would continue to yield.

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR DUANE: Is there evidence that there's been a significant rise in violent behavior in facilities, in OCFS facilities?

SENATOR SALAND: The information being given us is that the -- there is a belief within the ranks of OCFS that the existing penalties do nothing to deter this type of physical violence against OCFS personnel, and that whether it be an administrative sanction, something along the lines of the loss of good time or a loss of privileges, or the application of a misdemeanor, it seems to do little or nothing to deter these incidents.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Isn't it the present system that under OCFS regulations that juvenile offenders can be transferred to the adult system when they turn 16?

SENATOR SALAND: In certain

instances, they can be.

SENATOR DUANE: And you think that we need additional incentives beyond that to control behavior?

SENATOR SALAND: My staff has just been kind enough to provide me with some data which goes back to your prior question and may in fact help to address your current question.

The incidents which occurred in secure facilities, as have been -- as reported, probably several dozen of these incidents during 1999. Numbers of assaults in both, probably somewhere in the area of about five dozen. That's through -- through the earliest reporting period. In other words, it cuts off in 1999. And last year it would be safe to say that there was in excess of 200 of those incidents that occurred in both of those classifications of facilities.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR SALAND: Yes, Mr.

President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: The way I understand, you told me what the statistics were for last year. But my original question was what increase is that over previous years.

SENATOR SALAND: Well, I do not have the 1997 data, I'm sorry. And obviously at this point I can't tell you what the complete data will be for 1999. I only have '98 and 1999. And '99 obviously is incomplete.

SENATOR DUANE: So that could very well be a decrease, for all we know.

SENATOR SALAND: Well, in response to the question, whether it's an increase or a decrease or whether in fact it's -

SENATOR DUANE: We don't know.

SENATOR SALAND: -- the same level, the use of this stepped-up penalty is viewed by the department, because this is a departmental bill, as being necessary to afford their employees with a degree of

protection by way of this being a deterrent which would hopefully prevent physical injury to their employees.

We're not talking, particularly in secure settings, about people who are there for relatively minor transgressions, we're talking about young people who, I think many of the studies will tell you, tend to have within their ranks disproportionate numbers of incidents of violence. They are not there because they've engaged in conduct that might constitute petty larceny or white-collar crime or tax fraud. They're there because they've engaged in some particularly violent act which requires them being in a secure facility.

If we permit that violence to spew out and encompass the lives of those who are employed by the department to work with these people, we're in effect doing nothing but giving them additional opportunities and additional license to cause injury to people who are in effect being victimized.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator

Saland, do you continue to yield?

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: But the fact remains that we don't know whether this is an increase or a decrease. It could very well be a decrease. I wasn't at the meeting when the decision was made to ask for this bill, so we don't know what the context was. And it could very well be that this is just an old request and the numbers have gone down and maybe this isn't really necessary anymore.

But my question would be, since OCFS can now transfer young people to secure facilities as it is already, how many young people are there in OCFS, in the system now, that have not been transferred either to an adult prison or to a secure facility that would then be captured by this new law?

SENATOR SALAND: Let me respond to your question and then see if, for some rather practical reasons -- well, first, in secure facilities there are 500-and-some-odd

placements. And if you had 160 incidents out of 500-and-some-odd placements last year, I think that would tell you -- and these incidents are assaults -- I think that would tell you that it's a particularly violent environment.

I mean, just the numbers, that's probably better than 30 percent. So whether, again, it's an increase or a decrease, it's not exactly like you're going to choir practice.

Now, having responded to the question, if I could impose with a question, simply because I want to defer to a colleague.

If we have a series of questions that we're going to engage in, I will ask that this bill be temporarily laid aside so that my colleague has the opportunity to bring his bill forward. If that is okay with you, Senator Duane.

SENATOR DUANE: Yes, that would be -- I do have a series of questions, so I would appreciate that, thank you.

SENATOR SALAND: In that case, I would ask that the bill be laid aside

temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

SENATOR McGEE: Mr. President.

ACTING PRESIDENT MEIER: Senator McGee.

SENATOR McGEE: Please call Calendar 1251, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1251.

THE SECRETARY: Calendar Number 1251, by the Senate Committee on Rules, Senate Print 5833, an act making appropriations for the support of government and to amend Chapter 53 enacting the Education, Labor, and Family Assistance Budget.

SENATOR McGEE: Is there a message of appropriation at the desk?

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

SENATOR McGEE: I move to accept it.

ACTING PRESIDENT MEIER: The question is on the motion to accept the message of appropriation. All those in favor

signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted.

The Secretary will read.

SENATOR DOLLINGER: Explanation.

SENATOR STAFFORD: Thank you, Mr. President. And I also want to thank Senator Saland and Duane for their graciousness in allowing us to take this up, which is very helpful to me.

This is a supplemental budget that obviously provides various appropriations throughout state government. It includes Medicaid, it includes expenditure of funds for the Environmental Protection Fund and the new Office of Higher Education and Technology and obviously for various other social programs, including Family Assistance, and it obviously covers the entire gamut of our budget.

I would certainly be more than pleased to expand if anyone would care. Thank

you.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. Preside nt, I believe there's an amendment of mine at the desk. I'd ask that its reading be waived and that I be heard on the amendment.

ACTING PRESIDENT MEIER: Give us a moment to take a look at it.

SENATOR DOLLINGER: Thank you, Mr. President.

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

SENATOR DOLLINGER: Thank you, Mr. President.

This is an amendment to provide an additional $228.5 million in restorations to the Executive's Medicaid proposal, as follows. One, it will create full restoration of the proposed shift of managed-care costs to local government. The current version of the bill provides a partial restoration at $6.3 million. This would be a full restoration of

the shift of the cost to local government.

I would just suggest to my colleagues on the other side of the aisle who have talked about unfunded mandates, here's another opportunity, here it is, going once, going twice. You just need to put a yes on this amendment, vote in the affirmative, and you can have a budget bill, a supplemental appropriation bill that doesn't -- that solves an unfunded mandate that we created two years ago. Here it is. Here's your chance. We will fully fund this mandate for local pickup. We'll eliminate the unfunded mandate, we'll do the right thing. Here's your chance to do it.

In addition, this bill also contains a restoration of $86.3 million in cuts to hospitals, $79.5 million in cuts to nursing homes, and $34.6 million in cuts to the home-care industry. This bill will eliminate the unfunded mandates that we've put into the Medicaid program. This will bring them up-to-date. We will stop telling our hospitals and nursing homes to do more with less. Instead, we'll say do a little bit more and we'll give you a little bit more to get

more done. That seems to me to be a much better way to do it.

But, Senator Rath and others who have talked about unfunded mandates, here's your chance. We can eliminate that unfunded mandate when we shifted all those Medicaid costs to those local communities. And unlike our earlier debate with Senator Spano in which, remember, he said this is just a little tiny, tiny, tiny unfunded mandate, this one is a big, big, big unfunded mandate.

I would suggest to you here's your chance, take this amendment, adopt this amendment, and we can put an end to these unfunded mandates and start paying for them ourselves. That's the right way to do it.

Mr. President, I would urge the adoption of the amendment. It's the right thing to do. It will give our hospital, nursing home, and health-care industries more money to do more that needs to be done for all New Yorkers. I would move the amendment, 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 FUSCHILLO: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 20. Nays, 35. Party vote.

ACTING PRESIDENT MEIER: The amendment fails.

SENATOR FUSCHILLO: Final section, please.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1251 are Senators Dollinger, Duane, and Schneiderman. Ayes, 52. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. Preside nt, would you please call up Calendar Number 1252, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1252.

THE SECRETARY: Calendar Number 1252, by the Senate Committee on Rules, Senate Print 5835, an act to amend the Education Law and Chapter 756 of the Laws of 1992.

ACTING PRESIDENT MEIER: Read the last section.

Senator Hevesi.

SENATOR HEVESI: Mr. President, I believe there's an amendment at the desk.

ACTING PRESIDENT MEIER: Yes, there is. Do you wish to -

SENATOR STAFFORD: I'll give a quick explanation.

As we always do now, due to the Banks decision the Court of Appeals rendered a few years ago, we always now have accompanying language to in effect explain the budget.

And with that, I certainly yield to Senator Hevesi, who I believe has an amendment.

SENATOR HEVESI: Thank you.

Mr. President, I believe there's an amendment at the desk.

ACTING PRESIDENT MEIER: There's an amendment at the desk. Do you wish to waive the reading of the amendment, Senator?

SENATOR HEVESI: Yes. And I wish 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 HEVESI: Thank you.

Mr. President, in light of the discussion that we've had here today about unfunded mandates, we really need to set the context for some of the contents that are contained within the piece of legislation that's before us.

We passed a bill here this afternoon that gave great consideration to local governments and the impact of what we do

here on local governments, particularly by imposing requirements on them that will require our local governments to make an additional expenditure of funds. That's one way to hurt a local government.

The other way to hurt a local government is to deny that local government funding that it is either due from the state or its ability to collect revenue. And I'll remind everybody here that about three weeks ago, we did the mother of all of those and whacked out $360 million from New York City's budget through the repeal of the commuter tax. Absolutely disgraceful.

But I don't think we need to rehash that conversation, except to say that we denied one municipality in that case a great deal of money, although we had this whole discussion today about how we have to be sensitive to local governments.

Well, I would also point out in the context of the bill that's before us that we have repeatedly been unfair to all the school districts throughout the state who have prior-year school aid claims in the budget.

And this is now the fourth time that I've risen on the floor of this Legislature to talk about this issue. And I rise today with a profound sense of ambivalence.

The reason I say that is maybe all of our discussions about this have had a positive impact, because included in this bill -- fortunately, I think -- is an additional allocation of $12.8 million in recognition of prior-year school aid claims for the City of New York. So that's good, except that doesn't tell you the full picture. And the full picture is exceedingly problematic and leads me to the amendment that we have today.

Here's the full picture. The full picture is that currently in the Executive Budget that had been proposed, and is included in the budget that we are going to be adopting, there is an allocation of $36 million for prior-year school aid claims. The City of New York gets $14.4 million of it. Now we have an additional allocation in the bill that is before us of $75.8 million for a whole series of educational reforms. Included

in that $75.8 million is a provision that says that $12.8 million of that must be used to repay prior-year claims for the City of New York, which is very good.

Here's the problem. Well, two things. One is -- and I don't want to get back into the aggregate numbers, but the City of New York is owed over a billion dollars in prior-year claims, and municipalities throughout the rest of the state are owed just shy of $100 million. So the numbers we're talking about here are pale in comparison to addressing the need.

But I believe that what this legislation is is an attempt -- and I thank the Majority for this -- is an attempt to address the problem. And at least we've recognized the problem.

And the most immediate concern is that the City of New York will forfeit $39 million if, by the end of the city's fiscal year, which comes on the last day of this month, the city does not receive $39 million in prior-year claims.

So what do we have? We have $14.4

million that already in the budget, in the Executive. We now have $12.8 million in this budget bill, which brings us to about $27.2 million. Which leaves us $11.8 million short of just hitting the amount that we would have to get in order to not forfeit money. That's problem number one. We're $11.8 million short of the most bare requirement to deal with this problem.

Problem number two is the way that it was done. The way that it was done is taking the city's allocation of $75.8 million and saying that $12.8 million of that has to be used for prior-year school aid claims. Well, that's very nice, thank you very much. Here's what the problem is. And I'll just read you the enabling legislation here of what that $75.8 million is supposed to be included for: (1) after-school instruction, (2) summer-school instruction, (3) tutoring, (4) professional development, and (5) maintenance of capital facilities. All exceedingly important priorities.

So now what we've done is we've taken that $75.8 million and now we've reduced

by $11.8 million the amount of money available to spend on these most worthy programs. Now, if we want to take it further -- because again, that only gets us to $27 million. If we want to add another $11 million, we can do it, by reducing the amount of the 78 million down another $11 million. And what does that mean? That means that we could then have the $39 million for the city that would prevent us from forfeiting the money. And it also means that we then reduce from $75.8 million down to $51 million the amount of money that the City of New York has to spend on all of these worthy programs.

And I'll remind everybody, the $78 million is not enough to begin with. We were cheated in the Executive, we're cheated in this budget on school aid. And now, when we attempt to address the issue of prior year claims -- which is healthy. And I want to be careful here, because I want to encourage my colleagues on the other side of the aisle to keep moving in this direction. It's the right direction. But as we do it, it's being done in a way that doesn't provide enough money and

it's being done in a way directly that hampers our ability to provide what little we're given for all the other educational priorities that were included in this budget, which were insufficient to begin with.

So, Mr. President, the amendment that's before us is different from the other two amendments that I've introduced on this floor -- which, by the way, those other amendments called for $600 million to be added to the budget. Which wasn't enough, because the state's obligation right now for everyone, City of New York and all the other school districts, exceeds $1.1 billion. My other two amendments were $600 million.

And what we're doing today is an amendment that simply says that irrespective of anything else that's included in this budget, there shall be an amount appropriated that is equal to the amount that any local school district would have to forfeit as a result of the state not having fulfilled its obligations to pay prior-year claims. It essentially means we'd be adding another $39 million to the budget, because the City of

New York is the only municipality that has this most egregious problem on its hands.

And by the way, there was a colleague of mine on the other side of the aisle who recently suggested to me that it was in large part the city's own fault for not having filed its claims on time. And I would just suggest, because we don't need to get into that, that if any one of my colleagues on the other side of the aisle would like to get into that and discuss the reasons why the city is owed such vast amounts of money -- and it's not because of the city's own negligence - I'd be happy to engage in that discussion.

But this amendment is before us. It's important. What it would do is essentially allow us to take the first, most minuscule step to preventing the city from being severely damaged, as it would be because if we forfeited the $39 million this year, that means that the New York City Board of Education, already in dire straits in a whole series of ways, would simply have to write that money off and cut the $39 million out of other programs.

This would prevent that from happening, and I urge all of my colleagues on both sides of the aisle to address this issue, to support the amendment, and to continue to take steps in this direction.

And finally, I just -- I applaud the Majority for having moved in this area. And I just would wish that (a) we address it in conference committee again, to have a more thorough accounting of what needs to be done here, and (b) please, no one take my comments here today as sour grapes or what have you. We appreciate the consideration, the recognition of the problem. Now we need to take it to the next level.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I rise also in support of this amendment. I think that Senator Dollinger pointed out yesterday that the State of New York perhaps needed to get into Borrowers Anonymous. Unfortunately, Senator Hevesi's

amendment is meant to address the fact that the state has now dropped into one of the worst habits of people who don't manage their finances. Now we're not paying bills. And we're not paying a bill that is an extraordinarily important bill to pay.

It is incomprehensible to me that we can be -- spout the rhetoric of being for economic growth in this state while we're not making an investment in the most important element of economic growth, which is our public school system. $39 million wiped out from the New York City School System, money appropriated by the state owed to the city. How do you explain that to our children -- we owe them money, we refuse to pay? That, to me, is something I can't explain to my 6-year-old, and I don't think any of us can.

I urge all of you that we have to address this issue of the unpaid bills for the city school system. It's no secret that the system is badly in need of repairs. Funds for renovating buildings were vetoed last year. The teachers are underpaid. Certainly they're badly underpaid relative to other downstate

communities.

We have a chance to address this. I urge everyone -- not just city legislators, but everyone who cares about the economic interests of this state and the future of this state to vote for this amendment. Let's restore these badly needed funds to our city schools.

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 FUSCHILLO: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 21. Nays, 35. Party vote.

ACTING PRESIDENT MEIER: The amendment fails.

SENATOR FUSCHILLO: Read the last section, please.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 52. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. Preside nt, can we return to the calendar and call up Calendar Number 1300, Senate Print Number 5743, please.

ACTING PRESIDENT MEIER: The Secretary will read calendar 1300.

THE SECRETARY: Calendar Number 1300, by Senator Saland, Senate Print 5743, an act to amend the Penal Law, in relation to assault at Office of Children and Family Services facilities.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you,

Mr. President. If the sponsor would continue to yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you very much.

When we last left off, the sponsor told us that there were 160 youthful offenders who were put into secure detention -

SENATOR SALAND: No, no, let - let me -- what I said was that there are some 500-plus, and I'm sorry I can't be more specific, secure slots in the system. And that the last complete reporting year for which we have incidents, assaults reported, was 1998, and we had 160 assaults reported.

Now, those assaults are not merely assaults against OCFS personnel but also against others, other residents who are within whatever particular facility they are residing in. So this is also applicable to an assault

on not only an employee but on another resident.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: It might be helpful, then, to find out what was the disposition of those 160 cases.

SENATOR SALAND: Senator Duane, I'm not quite sure -- absent the ability to do some type of a follow-up in each of those cases, which I don't know if OCFS has even done -- that I could ever provide you that information.

The driving force behind this is a desire to in effect create some mechanism that will serve as a better deterrent than the current system.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm still not understanding what it is that is telling us that we need this additional offense to what it is that -- since we already have the ability to, upon the 16th birthday of an offender, put them in the adult system, and to transfer youth to secure facilities, why we need this additional penalty when we already have so many options for where it is that young people can be put with the penalties that we already have.

SENATOR SALAND: Senator, I mean you're correct when you say that there are existing mechanisms. And the transfer from limited-secure to secure is one of them; the transfer from secure to an adult correctional facility is another.

Obviously, they're not working or not working as well as those in the system would hope they would work, because we would not have the substantial number of incidents that we have. And as I said a bit earlier, when you superimpose the number 160 on the

number of 500-plus, that is a pretty high percentage -- I would venture somewhere in the area of 30 percent of the population. Not that it necessarily represents 160 separate incidents, but a serious number of incidents for a relatively small population.

SENATOR DUANE: Through you, Mr. President.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR DUANE: Thank you.

But it's not obvious, because we don't know whether this is an increase or a decrease in the number of incidents. And we don't really have much information about the incidents as they are.

And I fail to see why it is that creating new -- or an increased or a harsher offense would in any way impact on the behavior of young offenders if they are already at risk of being thrown in the adult

system or being thrown into secure detention.

And I asked the question before, how many young people in the OCF system have not been transferred into the adult system or the security facility or why it is -- we don't know the answer to that. And then I don't think we also know why it is that having this expanded offense of assault would provide any other options for those people who are running the facilities.

Why would this expand the -- the - what's the word I'm looking for -- the choices of what you could do with useful offenders?

SENATOR SALAND: Let me just suggest to you again, Senator, that the number of incidents may -- although I don't want to put words in your mouth -- may seem to be minimal or inconsequential. You seem to feel that what's important is to establish first that there has been an increase in the number of assaults occurring.

We're talking about assaults. And I apologize if I sanitize this by talking in terms of incidents. But we're talking about assaults. And you seem to feel that 160

assaults committed against OCFS personnel or against other residents is really not consequential enough to warrant some effort to try and change the system to deter this ongoing violent behavior that puts others at risk, others being either employees or other residents.

The Office of Children and Family Services in this program bill seems to believe that -- not seems to believe, believes that they need additional tools. Now, this tool, in my opinion, is intended to be a deterrent. It's intended to be a message that when you commit an assault now within a facility, it's treated as an assault, a misdemeanor assault charge, and there's little or no motivation in many instances to even pursue that in a local criminal court. Once you're talking in terms of a felony, that degree of discretion is somewhat severely circumscribed.

And I would just suggest to you that if we're really concerned about making facilities, OCFS facilities, safer places to be, there is obviously a history of violence, there is obviously the fact that we are not

being successful -- we may be having some modest success in some ways -- that this is intended as but another weapon, so to speak, in the department's arsenal to deal with some very violent young people.

If I was troubled by it, if I didn't think there was a rationale for it, I would not have accepted the bill to offer it on behalf of the department.

SENATOR DUANE: Through you, Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: Thank you very much.

I don't think that 160 incidents is inconsequential at all. In fact, I think it's quite serious, although I don't have a context to say that. I don't know whether last year there were 200, this year 160, or whether last year there was 100 and this year there's 160. So it's hard -- of which any of those numbers, in fact even one, is one too many. So I am concerned about that.

But I'm also concerned -- very

concerned about that, and I'm also very concerned about solutions that really will work to reduce incidents of violence, whether they're in OCFS facilities or anywhere.

I'm planning on voting no on this bill because I don't believe that this is a helpful tool in reducing youth violence on the street or, for that matter, in OCFS facilities.

I think other things that we should focus on are in the entire OCFS system, there are only 20 beds for persons to be treated for mental-health issues, of which I think that plays an enormous role in why it is that we see so much violence in society and continue to see it even among those people who are incarcerated in OCFS facilities.

And I also believe that there is - and I've said this before on the floor, that trying young people as adults in criminal court has no impact on reducing juvenile violent behavior. Nobody thinks it does. DAs don't think so. People who work in the field of youth violence don't think so. Judges don't think so. Nobody thinks that it's a

deterrent, sadly, except for politicians.

So to continue on that road of increasing penalties is just one that is not effective, and I fail to see why it is that we continue to try to solve our problems of youth crime and violence in this manner when it is so clear that it doesn't work and anybody who really works in the field also does not believe that it works.

And of course the other issue is the disproportionate number of young people of color who are incarcerated in these facilities who therefore would be at greater risk of being captured under this expanded offense of assault in the second degree. I think that that is poor public policy and something that we need to look at to try to make for a more just state.

And I again would encourage my colleagues to vote no on this, because it's the wrong way to go and it just doesn't work.

Thank you.

ACTING PRESIDENT MEIER: Senator Montgomery.

SENATOR MONTGOMERY: Yes,

Mr. President. If Senator Saland would yield for a question -- a couple of questions.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR MONTGOMERY: Thank you.

Yes. Senator Saland, this bill covers juvenile offenders, youth offenders?

SENATOR SALAND: It covers juvenile offenders who generally, by definition, have committed crimes. They could as well be in a correctional facility.

SENATOR MONTGOMERY: So the -

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MONTGOMERY: Yes, thank you.

Senator Saland, you say that this bill is at the request of Commissioner Johnson?

SENATOR SALAND: At the request of his department.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MONTGOMERY: Senator Saland, I believe that you've answered this already. But just to be sure, the Office of Children and Family Services, OCFS, where these young people are likely to be -

SENATOR SALAND: Yes.

SENATOR MONTGOMERY: -- do they already have the option of transferring those young people to DOCS if there are serious behavioral problems that threaten the staff and/or the other residents or the other youth?

SENATOR SALAND: Only under limited circumstances. They would have to be 16 and in a secure placement. If they were in a limited-secure or if they were under the age of 16, they do not have that authority.

Now, as I mentioned in response to the questions from Senator Duane, this bill would apply, at least in part, to OCFS employees. Now, specifically we have done similarly for correction employees so that those who work in a correction facility who are assaulted similarly have the protection or the expanded penalty of the felony offense as being a deterrent to their being assaulted. And we've done that in a number of different categories for particularly enumerated types of employment, such as EMTs, certainly peace officers and police officers as well.

SENATOR MONTGOMERY: Sure.

Mr. President, if Senator Saland would continue to yield.

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MONTGOMERY: You use deterrent in the same frame as prevention. So I -- you know, I take exception to that.

But let me just ask, since OCFS already has the capacity or the authorization to move automatically any 16-year-old, especially when that 16-year-old has - exhibits threatening behavior, your bill then -- does your bill then allow them to put younger people into DOCS?

SENATOR SALAND: What this bill permits -- what this bill permits is the ability, where an assault has occurred in a facility that is under the supervision of OCFS, where it's caused with the intent or - where it is committed with the intent to cause physical injury, that person would then be subjected to a D -- could be subjected to a D felony charge, an assault charge, which could result in quite obviously a much steeper sentence, a misdemeanor being no more than a year, a D felony being a lengthier sentence.

SENATOR MONTGOMERY: In DOCS or in -

ACTING PRESIDENT MEIER: Are you

asking Senator Saland to continue to yield?

SENATOR MONTGOMERY: Yes.

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

SENATOR MONTGOMERY: Does that sentencing that person -- assuming that person is 16, my presumption is that the staff would transfer them to DOCS because they have that option.

SENATOR SALAND: If -- if under the -- and I would have to pull out the JO statute. I do not have it in front of me. But the JO statute, Juvenile Offenders Statute, says that for certain crimes, certain violent crimes, if you're 13 years or older you can be sentenced as an adult.

So I'm assuming that this assault would be one of the violent crimes that would fit under that particular section. So that if you were over the age of 13 and committed that violent crime, you could then be sent to a facility that was administered by DOCS.

That's not a particularly common occurrence. Most of those things -- most of those matters are generally handled as OCFS

matters.

SENATOR MONTGOMERY: Okay. So, Mr. President, I want to make sure I understand what Senator Saland -

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

SENATOR SALAND: Yes. Yes, I do.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MONTGOMERY: What we're saying is that we already -- the commissioner already can transfer young people into DOCS. So we don't need to revisit that, he already has that.

What he's looking for now is to be able to transfer 13-year-olds into DOCS, is that what this -- based on how you just explained it, Senator, that's how I hear it, that now we're going to do -- we can do 13-year-olds under this law because that particular felony could theoretically allow us to try that young person or treat that young person as an adult. That's one of those areas that -

SENATOR SALAND: Let me just say

again, I don't have my -- the JO statute in front of me. If they could be treated as an adult, it doesn't mean that they're going into a DOCS facility. It may mean they will be sentenced to a lengthier sentence which would be served at OCFS. And if they then aged out under that lengthier sentence, then they would go to DOCS or they would be transferred to DOCS upon such time as they were eligible to go to DOCS. That is not the same as saying a 13-year-old is going directly to DOCS.

SENATOR MONTGOMERY: Now, we did legislation, the juvenile justice proposals, and that Class D felony under that statute, the maximum sentence is 7 years, I believe. Is that the case? It's 2½ years minimum, 7 years maximum?

SENATOR SALAND: I don't have the sentencing chart in front of me. I know an E is generally 1 to 3 or 1 to 3 1/3. A D, I think, is -- starts with a minimum of 2 and a maximum of either 6 or 7.

And I'm sorry I can't be more illuminating. I'm sure there are probably some other people in the chamber who do a

steady diet of criminal work who might be able to tell you exactly what those sentencing charts would provide for.

SENATOR MONTGOMERY: All right. Now, I have information -- if Senator Saland would continue to yield.

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR MONTGOMERY: I have information that says of the youth admitted to Office of Children and Family Services facilities in 1997, 56 percent were African-American and 29 percent were Latino and 14 percent were white. Now -- and of course we also know that there is a similar, little bit higher percent of African-American population in the -- in DOCS.

So does this mean, then, that we're going to see a larger number of African-American young people, possibly at the age of 13, who now will be serving whatever possibly the maximum is, which means that they serve some time in -- a longer period of time

in an OCFS facility, then automatically at 16 they get transferred to DOCS for another five years or so?

SENATOR SALAND: I'm not sure quite that that is an apt illustration.

But let me just suggest to you that what it means is that those regardless of whatever their racial or ethnic background might be who are going to engage in acts of assault, which heretofore would have been classified as a misdemeanor and not perhaps receive very much attention, are placing themselves at risk. They are placing themselves at risk of a far more severe criminal penalty, one which could well lengthen their stay in some type of detention.

They, however, are the ones who would be responsible for lengthening their exposure to that sentence -- to an expanded detention.

SENATOR MONTGOMERY: One last question.

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

SENATOR SALAND: Yes,

Mr. President.

ACTING PRESIDENT MEIER: The Senator continues to yield.

SENATOR MONTGOMERY: All right. Senator Saland, can you give me some indication in the budget what we're doing to increase funding that would be directed to OCFS for the purpose of providing mental-health services to young people in their facilities? Do we have some idea? Is there some attempt to address the problem from that angle as well as from the angle of a higher -

SENATOR SALAND: We are certainly concerned about funding for any number of areas that OCFS is engaged in. I could not, regrettably, off the top of my head tell you what we are doing particularly to deal with the issue that you've raised.

SENATOR MONTGOMERY: All right. Thank you, Senator Saland.

Mr. President, briefly on the bill.

ACTING PRESIDENT MEIER: Senator Montgomery, on the bill.

SENATOR MONTGOMERY: It's my

understanding that currently there are only two mental-health units, each only having ten beds, in the entire juvenile justice system. And Senator Saland has admitted -- and I certainly can't blame him, because we're getting the budget in pieces and we're getting it 200 pages at a time, so how can any of us know the details? But I certainly would hope that Senator Saland would be absolutely sure that we're going to correct this inadequacy that we have too few mental-health beds in juvenile justice.

OCFS does not have the capacity to address the behavioral issues of young people. And we understand that much of that behavior is only symptomatic of deeper issues that need to be addressed. We can't do that. So Senator Saland has come up with an easy way out: we just send them to DOCS. And in fact, not only do we send them to DOCS, but we create this felony charge. And so even if they don't go to DOCS immediately, they will be going to DOCS eventually, because they have now a longer sentence.

And we have not -- we know we don't

have the capacity, we have not addressed the reasons for the behavior. So this is just, to me, one more instance where the policy -- the thought about policy is not about prevention, not about correction, not about intervention, but only about incarceration. And we think of a thousand ways to have people end up being incarcerated without even attempting to address the issues that may cause them to be -- especially at 12, 13, 14, 15, and 16. That, to me, is really an abomination.

So, Mr. President, this is a very bad bill. It's a bad approach to an issue that we know is a problem. But this is certainly not addressing it. And to say that this is a deterrent, to me, is just absolutely not the case. So I'm going to vote no, and I urge my colleagues to vote no on this legislation.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1300 are Senators Duane, Montgomery, and Schneiderman. Ayes, 53. Nays, 3.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee.

SENATOR McGEE: Mr. President, would you kindly recognize Senator Stachowski?

ACTING PRESIDENT MEIER: Gladly.

Senator Stachowski.

SENATOR STACHOWSKI: Mr. Presid ent, very briefly.

Today we have the opportunity - and I know this is a stretch on the rules, but since I have an acting counsel -- being in the Minority, we don't have a big staff allotment, so I try to get volunteers wherever I can find them. And today I have this volunteer counsel that I wanted to bring to everyone's attention.

Jim Kelly is here today. As you may recall, he was here a couple of years ago,

actually to be honored for his retirement. And at that time he had informed us that his son had some major problems. And so the reason Jim's here actually today is, besides having the wonderful joy of sitting through those two amendments and that long debate that Senator Montgomery just had us enjoy -- and for somebody that's not on the floor, it was long, but not for us that are here all the time.

But Jim's here to highlight that the Hunter's Hope Foundation is bringing to people's attention the fact that there's a disease called Krabbe's disease, a leukodystrophy that strikes children and actually older people in different leukodystrophies. But Krabbe's is a disease that his son has.

And Jim and his wife, Jill, have taken it as their challenge to take a very challenging situation for them to deal with and try to make it a positive. And the positive is that they're bringing Krabbe's disease to the forefront, they're raising money to try to do research and hopefully

eventually find a cure for Krabbe's disease, and also to bring attention to people that if you're fortunate enough to have a child, regardless if they're healthy or not, that every day you should give them a hug and every day you should give them extra attention and every day you should be thankful that you have that child and that you're there to love that child.

So that's why Jim is here today. And we did a little something with state involvement to try to do something with Krabbe's. And so we did those things and we wanted to bring it to the attention of this chamber that that's why Jim was here and that's what we were doing.

And, Mr. President, I'd like to thank you for giving me that opportunity to bring that to everybody's attention. And also point out that we do have Jim Kelly here, and if he would please stand so everyone can recognize him. And then Tom, Senator Libous has -

(Applause.)

ACTING PRESIDENT MEIER: Senator

Libous.

SENATOR LIBOUS: Mr. President, I just want to add to Senator Stachowski's comments. We did have a press conference today, and Jim was at the press conference, again, and bringing awareness.

And tied to that, I just want to introduce a couple of other people quickly. We have Dr. Brown, Dr. Gould, and Elaine Marchi from the Institute for Basic Research that is doing studies on Krabbe's disease and working with Hunter's Hope in trying to find a cure for this disease. So we're all working in tandem.

And, Jim, thank you for taking time to be here and for your commitment to continuing to build Hunter's Hope.

ACTING PRESIDENT MEIER: Mr. K elly, we hope your visit here wasn't too painful, and we express our welcome to you and our admiration for the work you're doing, sir.

MR. KELLY: Thank you.

ACTING PRESIDENT MEIER: Senator McGee.

I'm sorry, Senator Schneiderman.

You know, we're going to have to move this lamp, Senator Schneiderman, because we can't see you.

SENATOR SCHNEIDERMAN: If you wish it moved, Mr. President, I support you in that effort.

I just am rising to request unanimous consent to be recorded in the negative on Calendar 706 and 1252.

ACTING PRESIDENT MEIER: Without objection, Senator Schneiderman will be recorded in the negative on Calendar 706 and 1252.

Senator Seabrook.

SENATOR SEABROOK: Yes, Mr. President. With unanimous consent, I'd like to be recorded in the negative on Calendar 1300.

ACTING PRESIDENT MEIER: Without objection, Senator Seabrook will be recorded in the negative on Calendar 1300.

Senator Smith.

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

1300.

ACTING PRESIDENT MEIER: Without objection, Senator Smith will be recorded in the negative on Calendar Number 1300.

Senator McGee.

SENATOR McGEE: Mr. President, would you please return to motions and resolutions.

ACTING PRESIDENT MEIER: Motions and resolutions.

SENATOR McGEE: Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: Yes, there is.

The Chair recognizes Senator Farley.

SENATOR FARLEY: I have lots of motions here.

On behalf of the distinguished Senator to my right, Senator Kuhl, Mr. President, I wish to call up his bill, 1723, which was recalled from the Assembly, which is know at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 339, by Senator Kuhl, Senate Print 1723, an act to amend the Agriculture and Markets Law.

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, 56.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

SENATOR FARLEY: On behalf of Senator Goodman, Mr. President, on page 44 I offer the following amendments to Calendar 1030, Senate Print 5348, 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 Senator Goodman again, on page 42, Calendar Number 1005, Senate Print 778, I ask that that bill retain its place after amending it.

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

SENATOR FARLEY: On behalf of Senator Skelos, Mr. President, on page 42 I offer the following amendments to Calendar 1003, Senate Print 5275A, 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 calendar.

SENATOR FARLEY: Mr. President, on behalf of Senator LaValle, on page 10 I offer the following amendments to Calendar 289, Senate Print 3024, 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: And last, on

behalf of Senator Goodman, I offer the following amendments on page 48, Calendar 1174, Senate Print 5671, 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 McGee.

SENATOR McGEE: Could we please return to the Senate Resolution Calendar Number 2 and adopt it at this time.

ACTING PRESIDENT MEIER: The motion is to adopt the second Resolution Calendar, Resolution Calendar Number 2. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar Number 2 is adopted.

Senator McGee.

SENATOR McGEE: Mr. President, if

we could return to the controversial calendar and take up Calendar Number 1301, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 1301.

THE SECRETARY: Calendar Number 1301, by Senator Saland, Senate Print 5751, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee.

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

ACTING PRESIDENT MEIER: Yes, Senator McGee, we have some substitutions. Shall we do those now?

SENATOR McGEE: Can we please take them at this time.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 29, Senator Farley moves to discharge, from the Committee on Rules, Assembly Bill 8339 and substitute it for the identical third reading, 794.

Senator Marcellino moves to discharge, from the Committee on Rules, Assembly Bill 8133A and substitute it for the identical third reading, 1297.

On page 11, Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill 7159 and substitute it for the identical third reading, 350.

On page 23, Senator Nozzolio moves to discharge, from the Committee on Rules, Assembly Bill 6317 and substitute it for the identical third reading, 652.

On page 10, Senator Leibell moves to discharge, from the Committee on Rules, Assembly Bill 2332B and substitute it for the identical third reading, 298.

On page 34, Senator Rath moves to discharge from the Committee on Rules,

Assembly Bill 1474A and substitute it for the identical third reading, 860.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator McGee.

SENATOR McGEE: Mr. President, there will be a meeting of the Rules Committee at 2:30 in the Majority Conference Room, please. The Senate will stand at ease pending the report of the Rules Committee.

Members should be aware that the Rules Committee's report will be for Monday, June 14th.

ACTING PRESIDENT MEIER: There will be a meeting of the Rules Committee at 2:30 in the Majority Conference Room. The Senate will stand at ease pending the report of the Rules Committee.

Senator Duane.

SENATOR DUANE: If I may be allowed to cast my vote in the negative on 1301, with unanimous consent.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative on Calendar 1301.

Senate will stand at ease. Members should also be aware that the only order of business following the report of the Rules Committee will be to accept the report of the Rules Committee.

(Whereupon, the Senate stood at ease at 2:12 p.m.)

(Whereupon, the Senate reconvened at 2:37 p.m.)

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, hands up the following bills directly for third reading:

Senate Prints 542, by Senator DeFrancisco, an act to dedicate the Camillus mature hardwood management area;

1144, by Senator Lack, an act to amend the Civil Rights Law;

1238B, by Senator Larkin, an act creating a temporary state commission;

2462, by Senator Leibell, an act to amend Chapter 929 of the Laws of 1986;

3475, by Senator Paterson, an act to amend the Tax Law;

4462A, by Senator Nozzolio, an act to amend the Social Services Law;

4476B, by Senator Marchi, an act in relation to authorizing;

4499, by Senator Bonacic, an act to amend the General Business Law;

4694A, by Senator Seward, an act to amend the Insurance Law;

4823, by Senator McGee, an act to amend the Mental Hygiene Law;

4927A, by Senator Stafford, an act to amend the State Finance Law;

5166A, by Senator Goodman, an act to amend the Agriculture and Markets Law;

5497A, by Senator Johnson, an act to amend the Lien Law;

5501, by Senator Nozzolio, an act

to amend the Not-For-Profit Corporation Law;

And 5675A, by Senator Larkin, an act to authorize the Commissioner of the Department of Environmental Conservation.

All bills directly for third reading.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: I move to accept the report of the Rules Committee.

SENATOR DOLLINGER: Second.

ACTING PRESIDENT MEIER: All in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Skelos.

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

ACTING PRESIDENT MEIER: The desk is clean.

SENATOR SKELOS: There being no

further business, I move we adjourn until Monday, June 14th, at 3:00 p.m., intervening days being legislative days.

Have a nice weekend.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Monday, June 14, at 3:00 p.m., intervening days being legislative days.

(Whereupon, at 2:41 p.m., the Senate adjourned.)