NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

January 25, 2000

11:07 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 stand and repeat with me the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT MEIER: The invocation will be given by Father Peter Young.

REVEREND YOUNG: Dear God, You have received many prayers from our skiers, and You have responded.

We acknowledge Your wisdom that allows our environment to benefit from Your ecological balance, and we thank You today for knowing that we have a great state, a beautiful and magnificent body of water and mountains and very fertile land.

For this we are coming to You with an attitude of gratitude for the gift of You have shared with us. Amen.

ACTING PRESIDENT MEIER: Reading of the Journal.

THE SECRETARY: In Senate, Monday, January 24th, the Senate met pursuant to adjournment. The Journal of Friday, January 21st, 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.

The Secretary will read.

THE SECRETARY: Senator Maltese, from the Committee on Elections, reports the following bills:

2908, by Senator Kuhl, an act to amend the Election Law;

And 4577B, by Senator McGee, an act to amend the Election Law.

Senator McGee, from the Committee on Alcoholism and Drug Abuse, reports the following bills:

2030, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law;

2791, by Senator Marcellino, an act to amend the Vehicle and Traffic Law;

4501A, by Senator Wright, an act to amend the Vehicle and Traffic Law;

4552, by Senator Wright, an act to amend the Vehicle and Traffic Law;

And 5073, by Senator McGee, an act in relation to requiring the Department of Motor Vehicles.

Senator Fuschillo, from the Committee on Consumer Protection, reports the following bills:

11B, by Senator Skelos, an act to amend the General Business Law;

925B, by Senator Meier, an act to amend the General Business Law;

1237A, with amendments, by Senator DeFrancisco, an act to amend the General Business Law;

5731, by Senator Fuschillo, an act to amend the General Business Law and the Vehicle and Traffic Law;

And 5947, with amendments, by Senator Maziarz, an act to amend the General Business Law.

Senator Trunzo, from the Committee on Transportation, reports the following bills:

654, by Senator Maziarz, an act to amend the Vehicle and Traffic Law;

2558, by Senator Kuhl, an act to amend the Vehicle and Traffic Law;

4250A, by Senator Trunzo, an act to amend the Highway Law and the Public Authorities Law;

4464, by Senator Nozzolio, an act to amend the Vehicle and Traffic Law;

4604, by Senator Trunzo, an act to amend the Highway Law;

5016, by Senator Trunzo, an act authorizing the Department of Transportation;

5054, by Senator Hoffmann, an act to amend the Vehicle and Traffic Law and the Insurance Law.

ACTING PRESIDENT MEIER: Can we have some silence in the chamber. The stenographer can't hear the Secretary.

Staff, take your seats. Members, if you have conversations to conduct, take them outside.

The Secretary will continue to read.

THE SECRETARY: And 6304, by Senator Wright, an act to amend the Highway Law.

Senator LaValle, from the Committee on Higher Education, reports the following bills:

27, by Senator LaValle, an act to amend the Education Law;

807, by Senator LaValle, an act to amend the Education Law;

1293, by Senator Rath, an act to amend the Education Law;

And 2050, by Senator LaValle, an act to amend the Education Law.

All bills ordered direct to third reading.

Without objection, all bills will be reported directly to third reading.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Seward, on page Number 10 I offer the following amendment to Calendar Number 81, Senate Print Number 1061, 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 Skelos, we have a substitution. Could we do that now?

SENATOR SKELOS: Please make the substitution.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: On page 11, Senator Kuhl moves to discharge, from the Committee on Education, Assembly Bill Number 9284 and substitute it for the identical Senate Bill Number, 6286, Third Reading Calendar 91.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator Skelos.

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

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

Senator Skelos.

SENATOR SKELOS: May we please adopt the Resolution Calendar, with the exception of Resolutions 2828 and 2832.

ACTING PRESIDENT MEIER: All in favor of adopting the Resolution Calendar, with the exception of Resolutions 2828 and 2832, signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The Resolution Calendar, with exceptions, is adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, may we please take up Resolution 2832, by Senator Velella, have the title read, and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read Resolution 2832 in its entirety. Oh, I'm sorry, the title only.

THE SECRETARY: By Senator Velella, Legislative Resolution Number 2832, congratulating His Eminence John Cardinal O'Connor, 8th Archbishop of New York, upon the occasion of his 80th birthday on January 15, 2000.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: On the resolution.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The

resolution is adopted.

SENATOR SKELOS: If we could open that resolution up to sponsorship by the entire Senate. If anybody wishes not to be on the resolution, they should notify the desk.

ACTING PRESIDENT MEIER: Anyone wishing to not be placed on the resolution, notify the desk. Otherwise, all members will be listed as sponsors.

Senator Skelos.

SENATOR SKELOS: Mr. President, at this time if we could take up the noncontroversial calendar.

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

THE SECRETARY: Calendar Number 46, by Senator Alesi, Senate Print 4507, an act to amend the State Administrative Procedure Act -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number

63, by Senator Maziarz, Senate Print 650, an act to amend the Criminal Procedure Law, in relation to period of limitation.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 64, by Senator Rath, Senate Print 676A, an act to amend the Penal Law, in relation to assaults.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 66, by Senator Volker, Senate Print 726, an act to amend the Criminal Procedure Law, the Public Health Law, and the Family Court Act, in relation to the authorized destruction of dangerous drugs.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 67, by Senator Libous, Senate Print 2085, an act to amend the Penal Law, in relation to increasing the penalties for repeat convictions.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 69, by Senator Velella, Senate Print 2352, an act to amend the Criminal Procedure Law, in relation to the commission of crimes against children.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 72, by Senator Bonacic, Senate Print 3719, an act to amend the Criminal Procedure Law, in relation to denial of recognizance or bail.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 82, by Senator Meier, Senate Print 2586, an act to amend the Real Property Tax Law, in relation to adding the town of Montague in Lewis County.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

87, by Senator Farley, Senate Print 3532, an act in relation to the calculation of average daily attendance and minimum days of session.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SKELOS: Mr. President, before we take up the one bill on the controversial calendar, I just want to inform the members that the Environmental Conservation Committee is meeting now; following that, Finance Committee will meet; following that, Codes; and following that, Labor. For the purposes of planning.

And now if we could go to the controversial calendar and take up Calendar

72, by Senator Bonacic.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 72, by Senator Bonacic, Senate Print 3719, an act to amend the Criminal Procedure Law, in relation to denial of recognizance or bail.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MEIER: Senator Bonacic, an explanation has been requested of Calendar 72.

SENATOR BONACIC: Thank you, Mr. President.

This legislation proposed is an act to amend the Criminal Procedure Law in relation to a denial of recognizance or bail in certain cases.

What we're doing as a result of this legislation is where you have had a convicted felon of a violent crime, and if they are rearrested in a 20-year period after the conviction of the first violent felony crime, in 11 categories, ranging from murder to burglary, robbery down to rape, that you

will not be granted bail if you are arrested a second time for any of these 11 category crimes.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, would my colleague on this dismal day with the very exciting tie yield for a question?

ACTING PRESIDENT MEIER: Senator Bonacic, do you yield?

SENATOR BONACIC: I yield, as well as my tie.

ACTING PRESIDENT MEIER: They both yield.

SENATOR PATERSON: Thank you, Mr. President. If he yields his tie, I'd be happy to take it.

(Laughter.)

SENATOR PATERSON: Senator, with the expedited hearing for these particular defendants, how would this affect the hearings for regular defendants and the time constraints, such as 180/80 time or 30/30 time, in which the prosecutor has to bring some kind of an action to just the other

defendants in the system? Has the Office of Court Administration given an opinion on this?

SENATOR BONACIC: I have not received an opinion from the Office of Court Administration.

What we are trying to do, by this legislation, is from experience and reports for criminal justice reform, there is a high rate of recidivism for a convicted felon who's arrested again and then goes out and commits a similar crime on innocent people in our society. And what I'm suggesting to you, that the paramount purpose of this legislation is to protect our community.

And if it means that we have to add another judge in order to protect the constitutional rights of other defendants who are facing criminal indictments in matters not relating to the class we're trying to address through this legislation, then that's something that has to be done.

SENATOR PATERSON: Mr. President -

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: -- if the Senator could continue to yield.

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: He yields.

SENATOR PATERSON: Mr. President, I agree with Senator Bonacic. I don't think that the difference of whether or not we have a judge -- if there's an interest of public safety or protecting potential crime victims, obviously we would have to incur that expense.

I was just asking what those costs might be or just whether or not the Office of Court Administration has budgeted for a possible law that we might pass if we can agree that this should actually be law.

And so, if Senator Bonacic would continue to yield, has there been any demonstration of, across the state, what the budget impact of this legislation would be?

SENATOR BONACIC: I'm not aware of it.

But I know that Governor Pataki supports this. And I know that the Senate Majority support this. And I'm sure if it

becomes law, we will find the money in our budget to finance whatever is necessary to protect our community from violent felons who may commit similar crimes.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President. If my colleague would continue to yield.

SENATOR BONACIC: I do.

ACTING PRESIDENT MEIER: He continues to yield.

SENATOR PATERSON: Mr. President, it appears to me that our whole concept of innocence until proven guilty is being changed by this piece of legislation. And I say that with the utmost respect for Senator Bonacic's intent.

Obviously, when you have some kind of measure that you can take that would diminish crime, we in this chamber have got to consider it. And I know that this bill has been on the calendar for a number of years. But I really don't mind getting up and discussing it because the intent of the

sponsor is very clear, and it's one that we all have, which is to diminish crime in our state.

However, I just want to point out to Senator Bonacic that there are a number of things we could do that would diminish crime, but then we wouldn't be living in a democracy. Now, if we lived in Bosnia or East Timor, we could just lock people up forever, for any crime they commit -- and because of the recidivism, we would reduce crime, because we know that a lot of crimes are committed by second offenders. But we'd give up the democracy in which we live.

Under our Constitution, Senator, how would you make the argument that we should pass this law? In other words, if there's a constitutional way we could pass this law, maybe we should consider it. But how do we pass this law and still adhere to the principles of our Constitution as they stand now?

SENATOR BONACIC: I think what you're suggesting is that if a person is charged with a second crime in these 11

categories and they have been a prior convicted felon, how do we protect the constitutional rights when they reappear before the judge.

I think that's your question, isn't it? I don't mean to frame your question, but I believe that's your concern.

SENATOR PATERSON: (Nodding.)

SENATOR BONACIC: And my answer to that is under this legislation, number one, the defendant is entitled to an expedited trial within 60 days of his arrest. Number two, every 14 days the defendant can make an application to the judge for a change in status if there is a change in status.

Now, if the defendant is the cause of the delay, then the 60-day period is tolled to an extended period as a result of defendant's delay.

But I recognize that in our society an individual is innocent until proven guilty, and that's why we put these fast-track legislative provisions in the legislation, to always have constant communication with the defendant, his attorney, with the prosecution

and the judge, and a speedy trial by a jury of his peers within 60 days.

ACTING PRESIDENT MEIER: Senator Paterson.

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

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: I appreciate Senator Bonacic's obvious concern for the constitutional rights, because the 14-day reapplication and the attempt to resolve these particular cases more quickly based on time are certainly admirable.

But what they are in a sense doing is softening the blow that we are striking against our constitutional protections.

It would really be fine with me if we have determined that people are so likely to be recidivists and are such dangers to society at the time that they finished serving the sentence for the first crime that's committed that we'd probably extend the punishment, rather than to go into a totally separate case and create a presumption because

we know that statistically there's more likelihood that first offenders become second offenders.

Because what we're now doing is taking separate incidents and now applying what is really a past action, one that has been served in terms of the criminal justice system, to a future act. And by doing that, we are now separating defendants between those who have previous records and those who do not.

And while I think that is a fair thing to do in terms of sentencing, and it is well-heeled in our criminal justice system that we do that in terms of sentencing, we cannot do that in terms of the establishment of innocence or guilt. And no matter how many ways we try to refit it or reprocess it for our purposes, we're really doing the same thing.

There aren't that many democracies left in the world. And I think that it would be a good thing to try to preserve this one. There are other remedies that we can find. And the one that I would suggest is the

discretion of the trial judge. These are individuals who can determine that the defendant poses a threat to society and can deny bail or make bail so excessive that the defendant can't afford it.

Now, if we're having a problem, if Senator Bonacic has noticed that there is a problem, then certainly we might have to reestablish what is the threshold test for individuals who will serve as criminal court justices or Supreme Court justices who handle these bail hearings.

But until that particular time, I think the last place we need to go to alter the situation, even in an attempt to improve public safety, is our prized state Constitution and the protections provided under our federal Constitution, the 6th and 8th Amendments, the right to a speedy trial and the right to bail.

ACTING PRESIDENT MEIER: Senator Gentile.

SENATOR SKELOS: Could I just interrupt for a minute?

ACTING PRESIDENT MEIER: Senator

Skelos.

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

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

Senator Gentile.

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

ACTING PRESIDENT MEIER: Senator Gentile, on the bill.

SENATOR GENTILE: I am in support of Senator Bonacic on this issue, despite my learned colleague, Senator Paterson, and the very valid points he brings up.

I do want to point out that too often in this state, in our state courts, what occurs is that when a bail application is made, a prosecutor, knowing the propensity of a defendant to be violent, usually makes a request for a high bail. And the response, more times than not, from defense attorneys to the judge is to remind the judge that under current New York State law, the only purpose

for setting bail is to ensure the return of the defendant on the next court date.

And technically speaking, technically speaking, the defense attorney is right in that situation. And therefore bail is not used to protect the community, it's used for a different purpose, and that is to ensure the return of the defendant on a court date.

I don't think that's enough in this state. We in this state must make a state policy determination through this Legislature that there is a reasonable and significant role for a judge and a court to play if a judge feels that someone is a danger to our community. And to do that, we need to give him the power or her the power to decide to put someone in without bail and, given the protections that we still have -- despite this law, we still have the seven-day, 180/80 law which requires the prosecutor to bring a case before a grand jury within a seven-day period or the defendant is released on his own recognizance.

So given that we have those

constitutional protections that I think some of my colleagues here on this side are concerned about, but nevertheless we now give the judiciary the power to say that this person potentially is a danger to the community, and the interests of the community need to come first here.

And therefore, I believe that what Senator Bonacic is doing in this bill is the correct thing and the statement that we need to make as a Legislature.

So I congratulate you on that, Senator.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 11. This act shall take effect on the first day of January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR PATERSON: Mr. President, we have two members who were recorded as

voting no last year out of the chamber, and I wanted to know if we could hold the roll call open so that they'll have an opportunity to -

SENATOR SKELOS: Yes, we'll extend that courtesy.

ACTING PRESIDENT MEIER: Yes, Senator Paterson.

SENATOR PATERSON: And for anyone that might want to change their mind.

(Laughter.)

ACTING PRESIDENT MEIER: Announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 72 are Senators Connor, Duane, Paterson, Sampson, Santiago, Schneiderman, and Stavisky. Ayes, 46. Nays, 7.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, that completes the controversial calendar.

If we could go back to motions and resolutions and take up Resolution 2828, by Senator Nozzolio, have it read in its

entirety, and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution Number 2828, honoring the Webster High School football team for winning the New York State Championship in the Section V Class AA Division.

"WHEREAS, Excellence and success in competitive sports can be achieved only through strenuous practice, team play and team spirit, nurtured by dedicated coaching and strategic planning; and

"WHEREAS, Athletic competition enhances the moral and physical development of the young people of this State, preparing them for the future by instilling in them the value of teamwork, encouraging a standard of healthy living, imparting a desire for success, and developing a sense of fair play and competition; and

"WHEREAS, The Webster High School Football Team, the Webster Warriors, rolled to a 35-18 victory to capture the New York State Football Championship in the Section V

Class AA Division on Saturday, November 27, 1999, at the Carrier Dome;

"The athletic talent displayed by this team is due in great part to the efforts of Head Coach Anthony Bianchi, Defensive Coordinator Chris Battaglia, Offensive Coordinator Dave Howlett, Assistants Andy Annunziatta and Jim Belluco, and Volunteer Coaches Vito Torregiano and Jim Belluco, skilled and inspirational tutors, respected for their ability to develop potential into excellence; and

"WHEREAS, The team's overall record is outstanding, and the team members were loyally and enthusiastically supported by family, fans, friends and the community at large;

"The hallmarks of the Webster Warriors team, from the opening game of the season to participation in the championship, were a brotherhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none;

"Athletically and academically, the

team members have proven themselves to be an unbeatable combination of talents, reflecting favorably on their school;

"Head Coach Anthony Bianchi, Defensive Coordinator Chris Battaglia, Offensive Coordinator Dave Howlett, Assistants Andy Annunziatta and Jim Belluco, and Volunteer Coaches Vito Torregiano and Jim Belluco have done a superb job in guiding, molding, and inspiring the team members toward their goals; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and the coaches and their outstanding athletes have clearly made a contribution to the spirit of excellence which is a tradition of their school; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to congratulate the Webster High School football team, its members -- Matt Agnello, Craig Akins, Rod Arcuri, Chris Beh, Marshall Berkes, Eben Blanchard, Gary Bonadonna, Jamaal Cain, Ryan Chase, Matt Cutaia, Phil Dalton, Shea

D'Ambrosio, Scott DeFrees, Anthony Delvecchio, Dan Dodge, Jason Ellis, Steve Fiano, John Follett, Jeff Frank, Justin Gallaway, Carl Garritano, Chris Golamb, Matt Gould, Dave Greenfield, Cory Hamel, Sean Hondorf, Kenny Hooks, Aaron Jaranowski, Taras Kowal, Jeff Krieger, Eric Leary, Dan Luce, Dan McGrath, Corey Mosher, Andrew Muto, Matt Owens, John Palermo, Brad Palmer, Mitch Pawluk, Jason Paycoff, Bo Pritchard, Kyle Quinn, Mike Ricci, Dave Ruggieri, Chris Sahler, Ashton Scaccia, Mike Scalzo, Matt Schlegel, Mike Schifano, Dan Sepka, Dave Shortt, Steve Stankowski, Dave Street, Brandon Thurman, Jay Ulmer, and T.J. Welsher -- and the coaches on their outstanding season and overall team record; and be it further

"RESOLVED, That copies of this Resolution, suitably engrossed, be transmitted to the Webster High School football team and to the aforementioned coaches."

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President.

Mr. President and my colleagues, I rise with great pride to welcome the Webster High School football team, the Webster Warriors, the State AA Champion football team, here to our Capitol today. Assemblyman Koon and I are hosting the team. And it's just such a great day, such a prideful day that we are here recognizing the tremendous accomplishments -- an undefeated season, phenomenal victory in the Class AA championship title.

And I thank Coach Bianchi, his staff, as well as Webster High School Principal John Soper, for making the trek here today and bringing the team to our State Capitol for this special recognition.

It's a tremendous group of young men that have given the community of Webster a tremendous amount of pride. They've overcome great adversity throughout the season, and today was no exception, in coming here under a snowstorm. We appreciate them getting up at 6:30 a.m. -- prior to then, leaving at 6:30 a.m., to come here to be with us in the Capitol today.

I also appreciate our Majority Leader, Senator Joe Bruno's courtesies in allowing the team to come here and sit in the gallery en masse. He's extended courtesies to the team in spite of the fact -- in spite of the fact, ladies and gentlemen, that the Webster Warriors, in achieving their championship, in the championship game defeated the Troy Horsemen. Senator Bruno represents Troy, in case anyone didn't know that.

Ladies and gentlemen, this team is made up of a number of singular stars. But, more importantly, they have what we would call a tremendous team spirit. There are four members of the All-Star All-State team with us, as they were given such an honor, including the AA State Player of the Year, in Dan McGrath.

But each of those individual honors pales in comparison to the way this team pulled together through thick and thin. Their coaches have said it, their faculty and administration at Webster High School has said it, and I am proud to say it, that this is an

outstanding group of individuals who have pulled together for the betterment of their team.

Their community is extremely proud. I as their Senator, Assemblyman Koon as their Assemblyman are extremely proud. We welcome them here to Albany. And we thank the Senate for this recognition in providing this resolution honoring their significant accomplishments.

Thank you, Mr. President.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is unanimously adopted.

And on behalf of the members of the Senate, we extend a warm welcome to Albany and to the Senate for the team members, your coaches, and friends.

Senator Seabrook.

(Applause.)

ACTING PRESIDENT MEIER: Senator Seabrook, just to clarify, that applause was for the Webster Warriors. But you're now recognized.

SENATOR SEABROOK: I want to thank you so much for recognizing me, and the applause.

Mr. President, I'd like -- with unanimous consent, I'd like to be recorded in the negative on Calendar Number 72.

ACTING PRESIDENT MEIER: Without objection, Senator Seabrook will be recorded in the negative on Calendar 72.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, there is a privileged resolution at the desk by Senator Wright. I would ask that it be read now in its entirety and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the privileged resolution.

THE SECRETARY: By Senator Wright, legislative resolution memorializing the President of the United States to release

an emergency supply of crude oil from the Strategic Petroleum Reserve and release the emergency reserve funds held in the Low-Income Home Energy Assistance Program.

"WHEREAS, The Strategic Petroleum Reserve was created in response to the 1973 Arab oil embargo; there are currently 563 million barrels of crude oil held in storage caverns located in several Gulf Coast states; and

"WHEREAS, The United States may draw down oil from the reserve at a rate of about 2 million barrels per day;

"OPEC cutbacks designed to reduce the supply of oil have resulted in significant increases in the price of oil;

"The price of crude oil is currently approaching $30 per barrel, almost three times the price of crude oil one year ago; and

"WHEREAS, Sales from the Strategic Petroleum Reserve may help reduce crude oil prices by providing more crude oil to United States markets;

"The resulting lower oil prices

would return purchasing power to the United States businesses and consumers;

"The Strategic Petroleum Reserve can be used to buffer oil-price swings; and

"WHEREAS, The recent artic temperatures have exacerbated price and availability problems, causing spot shortages of kerosene and home heating oil in the Capital District, Long Island, and Central regions of the state; such shortages have also occurred in numerous states located in the Northeast region of the country;

"Average retail prices as of January 24, 2000, are 167.7 cents per gallon; this is up 42.8 cents from last week's level of 124.9 cents, an increase of 34.3 percent; compared to the September average of 97.8 cents, prices have climbed 69.9 cents per gallon, a gain of 71.5 percent; and

"WHEREAS, The State of New York is vitally concerned about the recent price increases because the current price level is the highest ever recorded in the State, and this has caused extreme hardship, particularly for low- and middle-income families and the

elderly, living on fixed incomes;

"The temporary use of oil from the Strategic Petroleum Reserve will increase the supply of available crude oil, thereby easing pricing and availability problems;

"The Low-Income Home Energy Assistance Program is designed to assist low-income families defray the cost of heating their homes in winter; and

"WHEREAS, An estimated 750,000 families in New York State receive Low-Income Home Energy Assistance Program assistance;

"The federal government maintains an emergency reserve of Low-Income Home Energy Assistance Program funds, in an amount of approximately $300 million;

"The current price escalation of home heating oil necessitates the immediate release of such emergency funds to assist low-income families with their heating bills; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize the President of the United States to release an emergency supply of crude oil from the

Strategic Petroleum Reserve; and be it further

"RESOLVED, That this Legislative Body pause in its deliberations to memorialize the President of the United States to release the reserve funds held in the Low-Income Home Energy Assistance Program; and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to President Bill Clinton and Energy Secretary Bill Richardson."

ACTING PRESIDENT MEIER: Senator Wright.

SENATOR WRIGHT: Thank you, Mr. President.

On the resolution, I would urge its adoption. I don't think there's a member of this chamber in the last three or four days that hasn't received phone calls from his or her constituents with their concerns being voiced about the dramatic escalation in the prices of heating fuel and other fuel commodities.

I literally had one distributor call my office indicating that on Thursday he was notified his prices were going up 11 cents

a gallon, and on Friday he was notified they were going up another 14 cents a gallon, or 25 cents literally within a 24-hour period. And we've been able to document cost escalations in excess of 70 percent in a similar time frame.

That obviously has a very negative impact, not only on low-income families, senior citizens, individuals in rural communities, but residents throughout this state.

And it's not limited to the residential impact. It's also impacting our businesses and our economy -- small businesses that are relying on heating fuel. Trucking firms that deliver goods and products are paying a higher diesel price now, escalating rapidly within that same period of time, due to the competition for limited product.

Yesterday afternoon in the Energy Committee we took up the matter, met with representatives from NYSERDA, the state's energy arm, had a briefing and decided that the direction to be taking was to, number one, call upon the federal government. That's what

this resolution does, both from the standpoint of moving on the issue of strategic reserves but, equally important, releasing federal dollars that are available to the states in emergency situations for heating assistance.

Clearly what we've come through in the last week is an emergency situation. The release of those federal dollars would bring approximately $40 million to residents of the state of New York, helping them meet those costs. And many of us in this room know that we've heard from constituents who have seen bills as high as $300 and $400 for one delivery, twice and three times the cost of prior deliveries.

We also will be commencing immediately, in cooperation with Senator Fuschillo and the Consumer Affairs Committee, hearings into the activity relative to pricing, why that pricing has occurred, why the dramatic escalation, why the rapid change in such a brief period of time, trying to get to the bottom of why that pricing is occurring, what is occurring within the spot market, and at the same time looking for

long-term deterrents to prevent its recurrence.

Because I need not remind people, we are only in the third week of January. All one has to do is look out the window today and see that the climate and the temperature and the conditions are going to continue to remain very difficult here in the state of New York, as well as the entire region.

So I appreciate the indulgence of the chamber for bringing forth this resolution in a very quick fashion. I appreciate the support and encouragement of Majority Leader Bruno and the decisive action he took in directing the hearings.

And I look forward to working with my colleagues and would offer that the resolution be opened to the members of the Senate.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, as Senator Wright so graciously offers, why don't we open up the resolution

for cosponsorship. Everyone who wishes not to be on the resolution, please inform the Chair.

ACTING PRESIDENT MEIER: The resolution will be open to all members for cosponsorship. Those who wish to be excluded please notify the desk.

Senator Dollinger. I'm sorry, Senator Montgomery.

SENATOR MONTGOMERY: I'm sorry, you're on the resolution?

ACTING PRESIDENT MEIER: We're on the resolution.

SENATOR MONTGOMERY: Okay, thank you. I'll wait.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President.

I want to commend Senator Wright, the chair of the Energy Committee, for his decisive and quick work on this project.

I think as we heard yesterday from our representative from NYSERDA, the fluctuation in the price of heating oil is frankly, to say the least, suspicious, if not

overwhelming in driving the notion that someone is going to extract a very significant profit from the marketing of home heating oil.

When I get into work on Monday morning at my law office and my paralegal walks up to me and says, "Can you believe I paid 40 cents more a gallon for the delivery of home heating oil on Saturday morning," I think it's a sign that, quite frankly, there's widespread concern about the price of this commodity.

And I think there's a sufficient basis to conclude that we ought to take a very serious look at this and make sure that the supplies, the delivery chain -- someone somewhere along the line is making a very significant profit. I would suggest this is one of those instances when there may be a windfall profit. We should take a very careful look at it, both under the antitrust laws and in our pricing laws in this state, to make sure that because this cold snap has come, people aren't trying to make up for those very mild winters that we've had for the last two or three years.

So I commend Senator Wright. I think it's the right thing to do. My hope is that we get to the bottom of this with some speed and that we can decide whether or not even rebates may be available to those who've had to pay these high prices in a short period of time. I commend the chair, and I look forward to working with him on the resolution of this matter.

ACTING PRESIDENT MEIER: Senator Smith.

SENATOR SMITH: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Excuse me. Just a second, Senator Smith.

If you have a conversation that needs to take place, take it outside of the chamber.

Senator Smith.

SENATOR SMITH: Okay, when we finish the resolution.

ACTING PRESIDENT MEIER: All right.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Montgomery, why do you rise?

SENATOR MONTGOMERY: Mr. President, I rise to request unanimous consent to be recorded in the negative on several of the calendar bills: Calendar Numbers 63, 64, 67, and 72.

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative on Calendar 63, 64, 67, and 72.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, it's my understanding that Senator Alesi would like to be heard on the prior resolution, Senator Nozzolio's resolution. Would you recognize him, please.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: Thank you, Mr. President.

I know that while I was out of the chamber on other business that Senator Nozzolio so eloquently welcomed the young people and those accompanying them from the Webster High School, accompanied by our good friend Assemblyman Koon, who also represents the area.

But I'm glad that I had an opportunity to rejoin the proceedings here so that I could add my congratulations and my message of welcome as well, because a number of those young people also live in areas of my district.

So you're certainly a young group of people to look up to. We've had the opportunity to welcome others from our area, from Aquinas, from Fairport, and now from Webster. So you're among a group of very talented stars, and I wish you all the very best as the future presents itself to you.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Mr.

President, may we call an immediate meeting of the Labor Committee in the Majority Conference Room.

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

Senator Smith.

SENATOR SMITH: Mr. President, I request unanimous consent to be recorded in the negative on Calendar Number 72.

ACTING PRESIDENT MEIER: Without objection, Senator Smith will be recorded in the negative on Calendar 72.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, might we also announce that there will not be a meeting of the Codes Committee called at this time. Their business has been cleared, so there will not be a meeting of Codes.

ACTING PRESIDENT MEIER: Codes Committee will not meet as previously announced.

Senator Marcellino.

SENATOR MARCELLINO: Is there any

housekeeping at the desk, Mr. President?

ACTING PRESIDENT MEIER: We have a motion.

Senator Seward.

SENATOR SEWARD: Yes, Mr. President.

I move that the following bills be discharged from their respective committees and be recommitted with instructions to strike the enacting clause: Senate Numbers 678, 1291, 2984, 3693, 4130, 4607, 4894, 5260, and 6004.

ACTING PRESIDENT MEIER: So ordered.

SENATOR SEWARD: And on behalf of Senator Maltese, Mr. President, I move that the following bill be discharged from its respective committee and be recommitted with instructions to strike the enacting clause. And that Senate Number being 794.

ACTING PRESIDENT MEIER: So ordered.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we please return to the reports

of standing committees. I believe you have a report of the Finance Committee at the desk.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

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

Senate Print 6200, by Senator Morahan, an act to amend the Executive Law;

And 6325, by Senator Volker, an act to amend the Executive Law.

Senator Marcellino, from the Committee on Environmental Conservation, reports the following bills:

Senate Print 773, by Senator Stafford, an act to amend the Environmental Conservation Law;

775, by Senator Stafford, an act to amend the Environmental Conservation Law;

1917, by Senator Farley, an act to amend the Environmental Conservation Law;

4134A, by Senator Marcellino, an act to amend the Environmental Conservation Law;

4151, by Senator Marcellino, an act to repeal Title 17 of Article 23;

5404, by Senator Marcellino, an act to amend the Environmental Conservation Law;

5878, by Senator Marcellino, an act to amend Chapter 548 of the Laws of 1995;

And 6137, by Senator Marcellino, an act to amend the Environmental Conservation Law.

All bills ordered direct to third reading.

ACTING PRESIDENT MEIER: Without objection, all bills directly to third reading.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I believe that there are some nominations or appointments for confirmation at the desk. If we could move those appointments.

ACTING PRESIDENT MEIER: The Secretary will read.

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

As a member of the Workers' Compensation Board, Candace Kellogg Finnegan, of Garrison.

SENATOR MARCELLINO: Move nomination.

ACTING PRESIDENT MEIER: The question is on the nomination of the appointment of Candace Kellogg Finnegan, of Garrison, as a member of the New York State Workers' Compensation Board. All those in favor -- I'm sorry.

Senator Leibell.

SENATOR LEIBELL: Thank you, Mr. President. And I know everyone is under pressure to move these things because of the weather. But I did want to briefly comment that once again, we're very pleased that the Governor has sent us such a fine nomination.

And I would note that Senator Spano had hoped to be here, but he chairs very well and very effectively our Senate Labor Committee, which is in committee right now, so he asked me to comment also.

But I've had the good fortune to know Candace and her family over the course of

quite a few years now, and she is particularly well qualified to fill this position. For anyone who has had a chance to take a look at her resume and see the things she has done throughout her life, she's well qualified by virtue of her experience professionally, her education, and certainly by disposition.

So we are very fortunate to have Candace Finnegan for this position, and I'd like to move the nomination.

ACTING PRESIDENT MEIER: The question is on the confirmation of Candace Kellogg Finnegan as a member of the Workers' Compensation Board. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Mrs. Finnegan, on behalf of the Senate, we congratulate you and wish you well with your important duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

I'm sorry. Senator Marcellino.

SENATOR MARCELLINO: That's okay. Read.

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of the State Commission of Correction, Daniel B. Reardon, of Ilion.

SENATOR MARCELLINO: Move the nomination at this time. Also I'd like to request that the Chair recognize Senator Seward for purposes of a second.

ACTING PRESIDENT MEIER: Senator Seward.

SENATOR SEWARD: Thank you, Mr. President. I'm delighted to stand to second the nomination of Dan Reardon to be a member of the State Commission of Corrections.

Dan Reardon is very uniquely qualified to assume this post. He has an extensive background in county government in Herkimer County, serving in various capacities there, including Executive Director of the

Office for the Aging as well as the head of the Youth Bureau and as Energy Coordinator. So he has had experience in county government, which is so important as a member of this commission in relating to counties.

He also has a broad background in law enforcement, serving as a county sheriff in Herkimer County, as Chief of Investigations for the State Attorney General's office, and, most recently, as a member of the State Parole Board.

So there's no question that the Governor has made an outstanding choice in Dan Reardon to be a member of the State Commission of Corrections. I've known Dan personally for many, many years, and I can personally attest to his character and background.

So I stand to second the confirmation of Dan Reardon and to offer Dan and his family, who is in the gallery, my congratulations.

ACTING PRESIDENT MEIER: The question is on the confirmation of Daniel B. Reardon as a member of the State Commission of Correction. All those in favor signify by

saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is unanimously confirmed.

Daniel Reardon is with us in the gallery today. He's accompanied by his wife, Joan; his daughters, Katie and Lizzy; and his sister, Kathy.

Dan, on behalf of the Senate, congratulations and best wishes with your duties.

(Applause.)

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, may we move the next nomination. And subsequent to its reading, I would like the Chair to recognize Senator DeFrancisco, for purposes of a second.

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As a member of

the State Board of Parole, Patricia R. Tappan, of Baldwinsville.

SENATOR DeFRANCISCO: I'm proud to rise in seconding the nomination of Patricia Tappan for this very important position as a member of the State Board of Parole.

I have to look at my sheets, because she's held so many positions, both locally and at the state level, I'm not quite sure which position she's going to hold next.

She has a great background in the criminal justice system, not only her former position as Commissioner of Corrections here at the state level, but that similar position at the local level in Onondaga County. She actually at one time was also the Education Coordinator for the New York State Division for Youth.

So she knows the problems that young people have. And since most of the prison population is young people, she knows them from the corrections standpoint, and she's going to be an incredible asset to the Department of Parole.

And with her also is Hal Brown, our Assemblyman, who's also very proud of her. And he's present to also show his support for this outstanding nomination by the Governor.

And best of luck in your next appointment.

ACTING PRESIDENT MEIER: Senator Hoffmann.

SENATOR HOFFMANN: Thank you. I too am pleased to be able to rise and second the nomination of Patricia Tappan for commissioner of parole.

We are very proud of her in Onondaga County. She was the -- one of the first-in-the-state director of a county correctional facility, and served for many years in a very distinguished capacity as director. She was trusted and admired by people in and out of law enforcement, and even the inmates thought that she did a good job.

She is capable of speaking in two languages, English and Spanish. She is eminently qualified to fill a very important position in the Department of Parole as one of its commissioners.

This is a grueling job, my friends. It's not an easy task to undertake. We are in a growth industry here in corrections in New York State. And with 70,000 inmates, many of them have parole hearings in the far reaches of the state. And the parole commissioners spend long days driving to and from these facilities, sometimes staying in little motels in places like the North Country, where we have some of our prisons located far away from urban centers.

It is hardly a glamorous position. But I am proud of the fact that we have one of the most capable people, somebody who could be doing many things, I'm sure, and someone who is willing to undertake this arduous task. I'm convinced that the Corrections Department and the inmates and indeed the general population of the State of New York will be in better hands with Commissioner Tappan as a parole commissioner.

Congratulations.

ACTING PRESIDENT MEIER: The question is on the confirmation of Patricia Tappan as a member of the New York State Board

of Parole. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Patricia Tappan is with us in the gallery today. She is accompanied by her husband, John.

And we wish you well with your appointment, and good luck in the future with your duties.

(Applause.)

ACTING PRESIDENT MEIER: The Secretary will continue to read.

THE SECRETARY: As members of the Veterans Affairs Commission, Herman G. Harrington, of Rensselaer, and William E. O'Malley, of Niskayuna.

SENATOR MARCELLINO: Move confirmation.

ACTING PRESIDENT MEIER: The question is on the confirmation of Herman G.

Harrington and William E. O'Malley as members of the Veterans Affairs Commission. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominees are confirmed.

The Secretary will continue to read.

THE SECRETARY: As a member of the Continuing Care Retirement Community Council, Robert M. Chur, of Clarence.

SENATOR MARCELLINO: Move the nomination.

ACTING PRESIDENT MEIER: The question is on the confirmation of Robert M. Chur as a member of the Continuing Care Retirement Community Council. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The nominee is confirmed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, do you have a report of the Codes Committee to be read?

ACTING PRESIDENT MEIER: Yes, we do.

SENATOR MARCELLINO: Will you please read it.

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Volker, from the Committee on Codes, reports the following bill direct to third reading: Senate Print 6362, by Senator Lack, an act to amend Chapter 83 of the Laws of 1995.

ACTING PRESIDENT MEIER: Without objection, the bill will go directly to third reading.

Senator Marcellino.

SENATOR MARCELLINO: If you could hold for one second.

ACTING PRESIDENT MEIER: The

Senate will stand at ease for just a second.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, there being no further business to come before the Senate, I move we adjourn until Monday, January 31st, at 3:00 p.m., intervening days to be legislative days.

And everybody have a safe trip home.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Monday, January 31st, at 3:00 p.m. Intervening days will be legislative days.

(Whereupon, at 12:08 p.m., the Senate adjourned.)