NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 17, 2000

12:40 p.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

Will everyone present please rise and join me in reciting 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, may we 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, Tuesday, May 16, the Senate met pursuant to adjournment. The Journal of Monday, May 15, 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 Kuhl.

SENATOR KUHL: Yes, Mr. President.

On behalf of Senator Libous, would you please place a sponsor star on Calendar Number 487 and also Calendar Number 1144.

ACTING PRESIDENT MEIER: Sponsor stars will be placed on Calendars 487 and 1144.

SENATOR KUHL: Also, Mr. President, on behalf of Senator Bonacic, I wish to call up his bill, Senate Print 4499, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 467, by Senator Bonacic, Senate Print 4499, an act to amend the General Business Law.

SENATOR KUHL: Mr. President, I now move to reconsider the vote by which the bill passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

SENATOR KUHL: Mr. President, I offer up the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

SENATOR KUHL: Also, Mr. President, on behalf of Senator Maziarz, I wish to call up his bill, Senate Print 5180A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 159, by Senator Maziarz, Senate Print 5180A, an act to amend the State Administrative Procedure Act.

ACTING PRESIDENT MEIER: Mr. President, I now move to reconsider the vote by which the bill passed.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

SENATOR KUHL: Mr. President, I offer up the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

SENATOR KUHL: Also, Mr. President, I offer up amendments to the following Third Reading Calendar bills:

By Senator Lack, on page 10, Calendar Number 300, Senate Print 4686;

By Senator Padavan, on page 11, Calendar Number 313, Senate Print 6508;

By Senator Goodman, on page 26, Calendar Number 755, Senate Print 2028A;

By Senator DeFrancisco, on page 50, Calendar Number 1060, Senate Print 5880;

And by Senator Skelos, on page 59, Calendar Number 1156, Senate Print 7281A.

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

ACTING PRESIDENT MEIER: Senator

Kuhl, the amendments are received and the bills will all retain their place on the Third Reading Calendar.

SENATOR KUHL: Thank you.

ACTING PRESIDENT MEIER: Thank you, Senator Kuhl.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, at this time may we have the reading of the noncontroversial calendar.

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

THE SECRETARY: Calendar Number 7, by Senator Skelos, Senate Print 971, an act to amend the Vehicle and Traffic Law, in relation to out-of-state convictions.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 228, by Senator Bonacic, Senate Print 4858, an act to amend the Executive Law, in relation to the adoption of higher or more restrictive standards.

SENATOR HEVESI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 307, by Senator Kuhl, Senate Print 3243, an act to amend the -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

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

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

THE SECRETARY: Calendar Number 309, by Senator McGee, Senate Print 3874A, an act to amend the Alcohol Beverage Control Law, in relation to mandatory license.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 411, by Senator Libous, Senate Print 2096, an act to amend the Penal Law, in relation to the provision of large quantities.

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 609, by Senator Farley, Senate Print 7025, an act to amend the Public Authorities Law, in relation to providing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 627, by Senator Farley, Senate Print 7101, an act to amend Chapter 223 of the Laws of 1996 amending the Banking 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, 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 720, by Senator Hannon, Senate Print 7368, an act to amend Chapter -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 732, by Senator Goodman, Senate Print 4036A, an act to amend the Public Officers Law, in relation to the reimbursement of defense costs.

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, 43.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 773, by Senator DeFrancisco, Senate Print 2347, an act to amend the Navigation Law, in relation to the operation of a vessel.

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, 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 777, by Senator McGee, Senate Print 5836, an act to amend the Navigation Law, in relation to the operation of a vessel.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 778, by Senator McGee, Senate Print 7030A, an act to amend Chapter 533 of the Laws of 1993 amending the Vehicle and Traffic 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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, there will be an immediate meeting of the Children and Families Committee in the Majority Conference Room.

ACTING PRESIDENT MEIER:

Immediate meeting of the Children and Families Committee in the Majority Conference Room.

The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 779, by Senator McGee, Senate Print 7365, an act to amend the Vehicle and Traffic Law, in relation to the consumption or possession.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 794, by Senator Maziarz, Senate Print 7679A, an act to amend Chapter 433 of the Laws of 1997 amending the Public Health 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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 808, by Senator Maziarz, Senate Print 7232, an act to amend the Executive Law, in relation to increasing income eligibility.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 944, by Senator Larkin, Senate Print 4625A -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 958, by Senator Larkin, Senate Print 6966, an act to repeal the second undesignated paragraph of Section 207 of the Racing, Pari-Mutuel Wagering and Breeding Law.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 969, by Senator Balboni, Senate Print 5343, an act to amend the Family Court Act and the Domestic Relations Law, in relation to the issuance of orders of protection.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 998, by Senator Meier, Senate Print 7159, an act to amend the Labor Law, in relation to the security plans.

THE SECRETARY: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 90th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1015, by Senator Saland, Senate Print 7596, an act to amend the Penal Law, in relation to including school buses.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1020, by Senator LaValle, Senate Print 1198, an act in relation to the Long Island Suburban Highway Improvement Program.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1058, by Senator Goodman, Senate Print 4153, an act to amend the Tax Law and the Administrative Code of the City of New York, in relation to the seizure and forfeiture.

ACTING PRESIDENT MEIER: There is 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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1063, by Senator Skelos, Senate Print 6802, an act to amend Chapter 704 of the Laws of 1991 amending the Arts and Cultural Affairs 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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1065, by Senator Meier, Senate Print 6847, an act to amend the Tax Law, in relation to permitting the County of Oneida.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as Section 6 of Part KK of Chapter 407 of the Laws of 1999.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1093, by Senator Stafford, Senate Print 7007, an act to amend the Executive Law, in relation to the disclosure.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1125, by Senator Morahan, Senate Print 6735, an act to amend Chapter 631 of the Laws of 1997 amending the Social Services Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1142, by Senator Maziarz, Senate Print 7799, an act to amend Chapter 841 of the Laws of 1987, relating to the combined senior citizens services center.

ACTING PRESIDENT MEIER: Read the

last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1145, by Senator Libous, Senate Print 7145, an act to amend Chapter 744 of the Laws of 1992 amending the Mental Hygiene Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1162, by Senator Meier, Senate Print 1250A, an

act to amend the Education Law and the Public Health Law, in relation to the licensing of members.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 9. This act shall take effect January 1, 2001.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo, that concludes the reading of the noncontroversial calendar.

SENATOR FUSCHILLO: Thank you, Mr. President. May we now take up the reading of the controversial calendar.

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

THE SECRETARY: Calendar Number 228, by Senator Bonacic, Senate Print 4858, an act to amend the Executive Law, in relation to the adoption of higher or more restrictive

standards.

SENATOR HEVESI: Explanation.

ACTING PRESIDENT MEIER: Senator Bonacic, an explanation has been requested of Calendar 228 by Senator Hevesi.

SENATOR BONACIC: Thank you, Mr. President.

This legislation is intended to amend the Building Code Act, which comes under Executive Law Article 18. It provides that local governments may not adopt higher or more restrictive standards for construction that are applicable generally within the local government by the Uniform Fire Prevention and Building Code, unless the code counsel provides its prior approval.

What happens in present law is that a locality, whether it's a city, village or town, can adopt a higher or more restrictive building code change. Within 30 days, they kick that petition up to Albany. Albany - the State Building Code -- would then review what the local municipality did. It has to meet three standards.

And those standards are that it is

in fact a higher and more restrictive standard than what the State Building Code is, number one; that the new standard is reasonably necessary because of certain conditions in that local municipality; and, of course, that the standard has to meet engineering and fire safety practices with respect to construction.

Now, they have up to 180 days, the state, to approve it or not. And if they veto it, it goes back to that municipality and it then becomes null and void.

So the problem is this. Under local law -- let's take a municipality, any one, adopts a higher restrictive standard. You come in. You're a developer. You now put an application before that municipality. You have to conform to that tougher standard.

Albany takes five months to decide if it's valid or not. Let's say they veto it. It goes back to that municipality, and that higher condition of cost and higher standards, it doesn't apply. But it does apply to that applicant that started it and got caught in this process.

So what the new law says is, Okay,

municipality, give us six months to decide whether or not what you did was okay. And if it is okay, we'll let you know within six months, and then you impose it. It doesn't apply immediately when the local municipality adopts it.

That's the purpose of the legislation.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Would the sponsor yield?

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

SENATOR BONACIC: Yes, I do.

SENATOR HEVESI: I thank you for that explanation. I very much understand and can appreciate wanting to not disenfranchise developers and contractors as they go forward with the construction process.

My question for you is in your same hypothetical example, let's say ultimately, whatever the more stringent fire safety standard which the locality is trying to

implement, ultimately it will be approved by the code counsel. And the development, the construction will begin immediately under current law, under the more restrictive standards.

If the code counsel will ultimately approve the higher, more restrictive standards, you have a situation where we're protecting that local community.

As opposed to if this legislation passed, you could have a situation where the contractor now goes ahead, does not build with the new, more restrictive standards, and for five or six months while the code counsel is deliberating, you now have a structure that's built that doesn't adhere to more stringent standards, and the code counsel ultimately says, You do need the more stringent standards.

My question to you is, in that instance, is there anything that makes that developer go back and refit or retrofit his entire structure so that it does comply with the new standards?

SENATOR BONACIC: The answer is

no. Under this legislation, that developer would be home free in meeting the construction standards of the municipality before the Building Code ratified their request.

SENATOR HEVESI: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Mr. President, the problem with that situation is that it can kill somebody, it can cost somebody's life.

What we're talking about here is bringing buildings up to standards where we're preventing the spread of a fire in a particular situation, where we're trying to thwart the spread of smoky conditions, we're trying to make contractors use better materials to slow the spread of fire to save people's lives.

And I'm not sure we want to move in the direction of saying to a locality, You can't go ahead with these more stringent standards until a four-, five-, six-month approval process has been completed.

Whether or not, incidentally, it

ultimately gets approval. Because in a situation where it does get approval, the one we just laid out, now we didn't protect that locality for however long the time period is until the code counsel decides we're going to make it a more restrictive standard. So we just left that community naked, if you will, from protection for six months.

I'm not sure why we'd want to move in that direction. I understand the purpose of this bill is to ensure that we don't hurt contractors in the other eventuality, the flip side of this coin, which is the locality proposes a new change, a more stringent change, the contractor has to go ahead and build with the more restrictive change, and then, for whatever reason, the code counsel decides, no, it doesn't fit one of the three criteria that Senator Bonacic laid out, and therefore the contractor will have spent money in excess of what would have been required of him.

And while I can appreciate that, when you are balancing these interests on a scale, the potential for the loss of the life

and property and injury to people or the potential disenfranchisement of a contractor -- who incidentally, even if the building counsel decides, the code counsel decides at some later point that it doesn't comply with the three situations as stipulated, it probably was a good idea in the first place, or there was a good reason why the locality wanted to do it, even if the code counsel didn't see it that way.

So you don't have the more stringent requirement, and we've disenfranchised the contractor, but ultimately we may have protected somebody for those six months, and it's highly unlikely that the contractor will go back on his more stringent requirements.

So even in that one circumstance, while I can appreciate that we may be doing some economic damage in a very narrow situation, the greater good I don't believe is served at all by allowing this legislation to go through, which would leave bare, leave barren the protections that a locality would have imposed on its contractors for building

with reference to fire safety issues.

So I don't think this is a good idea. I understand its purpose; I certainly do not think it's a good idea. And, Mr. President, I'm going to be voting no on this.

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: I wanted to add a couple of comments to clear the air on some of the remarks that were made by Senator Hevesi.

First of all, we have a State Building Code that is adequate and sufficient to protect life and property. What we're trying to discourage is to have, in different municipalities, such restrictive legislation that it's difficult to determine where to do business.

You may go in Municipality A and they may not want any growth, so therefore their request is exorbitant. And you go to Municipality B, maybe it's half exorbitant, a different set of rules.

And what you have, what you start doing is you start diluting the State Building

Code. You don't have a comprehensive plan or a message for anyone that wants to come into the state to develop in any municipality in the state of New York.

One of the things we're trying to do is always to elevate our standards for safety in construction and fire prevention. That's always a goal. I submit to you that that's presently in place.

And we are now looking, and we will be coming to this body, I would say in probably less than 18 months, with an overhaul of the State Building Code. And one of the things we're trying to discourage is 500 municipalities going in 500 different directions with 500 different standards.

And that is confusing. It's counterproductive to economic development. It has nothing to do with the protection of people and safety, because the State Building Code standards are in place now.

So those remarks are saying that everyone's at risk, property's at risk. I just don't believe it to be true.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Onorato.

SENATOR ONORATO: Mr. President, will the sponsor yield?

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

SENATOR BONACIC: I will, yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR ONORATO: Senator Bonacic, wouldn't it make more -- maybe I'm not quite grasping this. But we do have a standard of building codes that are promulgated by the State of New York -

SENATOR BONACIC: That's correct.

SENATOR ONORATO: -- that would apply to all of the communities and municipalities throughout the state.

SENATOR BONACIC: That's correct.

SENATOR ONORATO: Wouldn't it make sense that before any municipality were to go ahead with any type of construction at all that they get preclearance from the state if they wish to deviate from the current law? Wouldn't that really cut to the heart of the

whole matter?

SENATOR BONACIC: It would.

SENATOR ONORATO: And wouldn't that simplify the bill?

SENATOR BONACIC: It would.

SENATOR ONORATO: And everybody would know if -- does your bill do that?

SENATOR BONACIC: My bill accomplishes pretty much the goal that you're talking about. That's not existing law, what you just are trying to accomplish.

Right now, under existing law, if that local municipality adopts that law, it's law regardless of what the state does. The state has up to six months to decide. They could decide in 30 days or six months. If they don't address it, it's an automatic approval after six months.

But my point is, the local higher standard and more restrictive building code would be effective immediately. And now, six months -- up to six months later, the State Building Code people could veto it and therefore the local municipality has to go back to square one. That's the law now.

And what I'm saying under this proposal is that what the local municipality wants to do is held in abeyance until the State Building Code says it's good idea or it's a bad idea. That's what my legislation does.

SENATOR ONORATO: Thank you, Senator.

On the bill.

ACTING PRESIDENT MEIER: Senator Onorato, on the bill.

SENATOR ONORATO: I just want to make it clear for the record that that's the intent of this legislation, is that before any type of construction moves forward when they deviate from the current state requirements for the building, that no construction shall commence until final approval is given.

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.)

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Mr. President, to explain my vote.

I believe Senator Onorato's suggestion is a good suggestion that preclearance be mandated in the law as long as we had an expedited timetable for that preclearance. Because, again, then we don't want to find ourselves in the situation where it could take six months or what have you to preapprove more stringent regulations, the failure to enact them compromising people's safety and security.

I would suggest to Senator Bonacic that if his legislation was directed at making a less stringent -- reducing the requirements, I would agree with him completely, that before that could happen, the code counsel would have to review it.

But in a situation where they're making it more stringent, that's the prerogative of the locality, I believe. And we don't want to shift the burden to make it more difficult to impose greater restrictions.

And if ever the code counsel has agreed with the municipality under current law and said, Yeah, you're right, you can go ahead, where they don't even need the approval, but you can go ahead and implement it after the fact, after the 30 days, then that is proof that a locality, because of certain conditions, deemed it necessary and in fact it was necessary to make it more stringent.

If that ever happens again and we have prevented that municipality from enacting those regulations for however long it takes for the code counsel to approve, we have by definition made the conditions in that locality less safe than they would have been were the locality to have enacted the legislation immediately.

And in terms of the standards for businesses determining whether or not this is a good place to do business because of the variances in building code throughout the state, I would simply suggest that the localities that are making these determinations are elected into office, they

are making those decisions, and they'll have to weigh whether a business will want to do business in that locality as a consequence of their building code in that locality -- in the very same way that when localities decide how much they're going to tax businesses or tax their residents, they also have to weigh what the consequences are to businesses.

I submit to everyone in this instance that this legislation is not in the public interest. I vote no.

ACTING PRESIDENT MEIER: Senator Hevesi will be recorded in the negative.

The Secretary will announce the results.

THE SECRETARY: Those recorded in the negative on Calendar Number 228 are Senators Coppola, Duane, Gentile, Hevesi, Onorato, and Paterson. Ayes, 51. Nays, 6.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 720, by Senator Hannon, Senate Print 7368, an act to amend Chapter 884 of the Laws of 1990 amending the Public Health Law.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Hannon, an explanation has been requested of Calendar 720 by Senator Duane.

SENATOR HANNON: This bill would extend for one year certain provisions of the Public Health Law which allow payments to be made to diagnostic and treatment centers for the amount of care that they provide for what we call uncompensated care, those who are not otherwise covered by insurance nor by Medicaid.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you. Would the sponsor yield?

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

SENATOR HANNON: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering why there isn't -- if there's any reason why this can't be made permanent.

SENATOR HANNON: Well, we've traditionally extended it because there has been a varying number of these diagnostic and treatment clinics. There has also been - some of these clinics come under state licensure and federal licensure, and there's been different treatment of the ones for federal licensure by the federal government for Medicare.

Second, there's been an increase in these numbers, and there's been some thought by some people in the health care community that we ought to be expanding.

And therefore, with all of the uncertainty, there hasn't been a firm ground and a firm really view as to where we're going with this, and so we've continued it from year to year. Because what we do need to do as a concensus is to make sure that these clinics stay alive and are able to treat the people.

Some of these clinics, such as the ones that are in your district, do yoeman work in making sure people who would otherwise not be covered receive medical care.

SENATOR DUANE: If the sponsor

would continue to yield.

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

SENATOR HANNON: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you.

I'm also curious as to whether or not this isn't a matter which could have been dealt with as part of the HCRA legislation which we dealt with earlier.

SENATOR HANNON: Part of it is. Part of it, it well could have been, but it wasn't.

SENATOR DUANE: 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, 58.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 944, by Senator Larkin, Senate Print 4625A, an act to amend the General Municipal Law, in relation to the establishment.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Larkin, an explanation has been requested of Calendar 944 by Senator Paterson.

SENATOR LARKIN: Senator Paterson, this is a bill we had last year. And this is a mega shopping plaza within my district of 260-some stores.

And the town and the property owners of Woodbury Commons have sought to establish a district that we've established in other places throughout the state in order to give them greater control of the traffic in there and law enforcement.

They're going to contract with the town. There will be no expense for the town. As a matter of fact, there will be a profit to the town.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Larkin would yield for one question.

ACTING PRESIDENT MEIER: Senator Larkin, will you yield?

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: So therefore, I can understand from what what you're saying, Senator, that there will be no taxes assessed to anything other than commercial -

SENATOR LARKIN: Nothing at all, sir.

SENATOR PATERSON: Thank you.

Last section.

ACTING PRESIDENT MEIER: Read the last section.

Oh, I'm sorry, the record should note 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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 958, by Senator Larkin, Senate Print 6966, an act to repeal the second undesigated paragraph.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Larkin, an explanation has been requested of Calendar 958 by Senator Duane.

SENATOR LARKIN: Senator Duane, this is a bill requested by the Racing and Wagering Board.

These hunts are something that used to be of importance years ago, but today they do not amount to anything. Currently there's an application fee of $25 a day, and the board may issue no more than ten licenses in a racing season.

And this is when they've had - many of you have read about in Virginia when

they would have the hunt and they would line up at 6 o'clock in the morning and go. Here we don't have them. In the past year, there hasn't been one request. In the past three years, there's only been two requests.

Hunts are not held on the grounds of any racing association; they're on private property. And participants are not licensed by the Board. So the Board of Racing and Wagering does not feel that this is something that we should just continue on with.

SENATOR DUANE: If the sponsor would yield, Mr. President.

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

SENATOR LARKIN: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering, what is a hunt club? Is it like an organization with -- is it like a 501(c)(3), or do they have like -

SENATOR LARKIN: They don't have to be a 501(c)(3). It can just be a private

club with no entities of financial support from anybody but themselves.

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

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

SENATOR LARKIN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Because this is a new concept for me, that's why I'm asking these questions -

SENATOR LARKIN: I cannot hear him, Mr. President.

SENATOR DUANE: I was prefacing my comment by saying because this is a new concept for me, the state hunt clubs.

I'm assuming that the purpose of this is that if hunts happen on private property, you shouldn't need to have a license. But if a hunt happens on public property, under this legislation, then, they would not -- they still wouldn't need to have a license.

SENATOR LARKIN: If they were going to have it at -- say, at the Saratoga Raceway or the State Fair, they would have to have something. But within the private sector, there's no requirement for it.

And the number-two issue is why keep all of those forms around when nobody's used them, nobody's having them anymore? Twenty-five and 30 years ago, this was a big issue. Twenty-five and 30 years, they used to use 50 to 100 of these in the State of New York a year.

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

On the bill.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: I'm going to be conflicted until the last moment, because I am concerned about those foxes that I think - that's what in England they're always chasing after those cute little foxes, aren't they, in these hunts?

So I'm just concerned about the health and safety of those foxes here in the

great State of New York.

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo, that concludes the controversial calendar.

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

ACTING PRESIDENT MEIER: No, there is not.

SENATOR FUSCHILLO: There being no further business to come before the Senate, I move we adjourn until Monday, May 22nd, at 3:00 p.m.

ACTING PRESIDENT MEIER: On

motion, the Senate stands adjourned until Monday, May 22nd, at 3:00 p.m. Intervening days will be legislative days.

(Whereupon, at 1:14 p.m., the Senate adjourned.)