NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 22, 2000

3:03 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.

I ask everyone present to please rise and repeat with me the Pledge of Allegiance.

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

ACTING PRESIDENT MEIER: In the absence of clergy, 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, Friday, May 19, the Senate met pursuant to adjournment. The Journal of Thursday, May 18, 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.

Report of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

Amendments are offered on the following Third Reading Calendar bills:

Sponsored by Senator Hannon, page number 12, Calendar Number 362, Senate Print Number 4765;

By Senator Lack, page number 42, Calendar Number 980, Senate Print Number 7749;

By Senator Maziarz, page number 46, Calendar Number 1021, Senate Print Number 1505A;

By Senator Marcellino, page number 53, Calendar Number 1105, Senate Print Number 7591;

By Senator Morahan, page number 53, Calendar Number 1116, Senate Print Number 6036B;

By Senator Alesi, page number 55, Calendar Number 1131, Senate Print Number 4493A;

By Senator Farley, page number 56, Calendar Number 1148, Senate Print Number 1165;

And by Senator Nozzolio, page number 58, Calendar Number 1167, Senate Print Number 5824.

I now move that these bills retain their place on the order of Third Reading Calendar.

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

Senator Alesi.

SENATOR ALESI: Mr. President, on behalf of Senator Spano, please remove the sponsor star from Calendar 288.

ACTING PRESIDENT MEIER: So ordered.

SENATOR ALESI: I wish to call up my bill, Print Number 6767, recalled from the Assembly, which is now at the desk. I now

move to reconsider the vote by which the bill was passed.

ACTING PRESIDENT MEIER: Just a second. Hold on, Senator.

The Secretary will read.

THE SECRETARY: Calendar Number 875, by Senator Kuhl, Senate Print 6767, an act to amend the Executive Law.

ACTING PRESIDENT MEIER: Senator Alesi.

SENATOR ALESI: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

Senator, are you moving to reconsider the bill?

SENATOR ALESI: Yes.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT MEIER: And the amendments are received.

Senator Skelos.

SENATOR SKELOS: Mr. President,

on behalf of Senator Seward, there will be an immediate meeting of the Insurance Committee in the Majority Conference Room.

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

Senator Skelos, shall we do the substitutions now?

SENATOR SKELOS: Please make the substitutions.

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 10, Senator Lack moves to discharge, from the Committee on Rules, Assembly Bill Number 7162A, and substitute it for the identical Senate Bill Number 4686A, Third Reading Calendar 300.

ACTING PRESIDENT MEIER: The substitution is ordered.

Senator Skelos.

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

ACTING PRESIDENT MEIER: The

Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 80, by Senator Maltese, Senate Print 4572, an act to amend the Vehicle and Traffic Law, in relation to increasing the penalty.

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, 43.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 237, by Senator Rath, Senate Print 674B, an act to amend the Social Services Law and the Family Court Act, in relation to the definition of a "person in need of supervision."

SENATOR GENTILE: 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 Alcoholic Beverage Control Law, in relation to the imposition of driver's license suspensions.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR GENTILE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 383, by Senator Morahan, Senate Print 6438A, an act to amend the Vehicle and Traffic Law, in relation to eliminating the additional fee.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. 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 391, by Senator Balboni, Senate Print 6009A, an act to amend the Retirement and Social Security Law, in relation to participation.

SENATOR HEVESI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 736, by Senator Trunzo, Senate Print 7181A -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 754, by Senator Spano, Senate Print 1469C, an act to amend the Social Services Law, in relation to unfounded reports.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR GENTILE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 756, by Senator Saland, Senate Print 3952, an

act to amend the Family Court Act, in relation to the placement.

ACTING PRESIDENT MEIER: Read the last section.

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

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 845, by Senator Wright, Senate Print 7012, an act to amend the Executive Law and the State Technology Law, in relation to the Office for Technology.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR COPPOLA: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 852, by Senator Nozzolio, Senate Print 6148, an act to amend the Executive Law, in relation to crime victims.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 857, by Senator Alesi, Senate Print 7076, an act to amend the State Administrative Procedure Act, in relation to notice.

SENATOR HEVESI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 870, by Senator Seward, Senate Print 3174, an act to amend the Executive Law, in relation to requiring.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll call.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 873, by Senator Padavan, Senate Print 4670, an act to amend the Executive Law, in relation to voting members.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 877, by Senator LaValle, Senate Print 7413, an act to amend the State Finance Law, in relation to the preferred status.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Goodman, Senate Print 7469, an act to amend the Public Officers Law, in relation to the defense and indemnification.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 895, by Senator Bonacic, Senate Print 3893, an act to amend the Executive Law, in relation to standards for construction.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 919, by the Assembly Committee on Rules,

Assembly Print Number 10801, an act to amend Chapter 228 of the Laws of 1998 relating to promotional 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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 936, by Senator Hoffmann, Senate Print 7122, an act to amend the Agriculture and Markets Law, in relation to use and repair.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 952, by Senator LaValle, Senate Print 7480, an act to amend Chapter 626 of the Laws of 1996 amending the Local Finance 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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 954, by Senator Maziarz, Senate Print 7794, an act to amend the Town Law and the Public Officers Law, in relation to the residency of persons.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR GENTILE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 959, by Senator Larkin, Senate Print 7078, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law, in relation to occupational licenses.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 964, by Senator Lack, Senate Print 3400A, an act to amend the Estates, Powers and Trusts Law and the General Obligations Law, in relation to renunciations.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1004, by Senator Saland, Senate Print 6074, an act to amend the Penal Law, in relation to establishing.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1023, by Senator Lachman, Senate Print 2966B,

an act to amend the Railroad Law, the Public Authorities Law, and the State Finance Law, in relation to providing.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1024, by Senator Skelos, Senate Print 5434A, an act to amend the Vehicle and Traffic Law, in relation to the appointment.

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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1034, by Senator Bruno, Senate Print 5682, an act authorizing the conveyance of land by the South Glens Falls Central School District.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1035, by Senator Seward, Senate Print 7441A, an act in relation to the apportionment of state building aid.

ACTING PRESIDENT MEIER: There is a local fiscal impact note at the desk.

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1044, by Senator Alesi, Senate Print 6261A, an act to amend the Navigation Law, in relation to requiring.

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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1045, by Senator Skelos, Senate Print 6497A, an act to amend the Navigation Law, in

relation to the termination of the unsafe operation of a vessel.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1046, by Senator DeFrancisco, Senate Print 7142, an act to amend the Navigation Law, in relation to vessel equipment.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1047, by Senator DeFrancisco, Senate Print 7143, an act to amend the Navigation Law, in relation to service charges and fees.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1052, by Member of the Assembly Tonko, Assembly Print Number 10035, an act to amend the Parks, Recreation and Historic Preservation Law, in relation to the appointments.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1177, by Senator McGee, Senate Print 6695, an act to amend the Local Finance Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

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

SENATOR SKELOS: Mr. President,

if we could take up the controversial calendar.

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

THE SECRETARY: Calendar Number 237, by Senator Rath, Senate Print 674B, an act to amend the Social Services Law and the Family Court Act, in relation to the definition.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Rath, an explanation has been requested of Calendar 237 by Senator Duane.

SENATOR RATH: Thank you, Mr. Chairman.

The amendment is merely a correction of a technicality that we missed when we passed this two weeks ago, in order to conform it to Section 371 of the Social Services Law.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr.

President. Would the sponsor yield?

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you.

I'm wondering how it is that we will be paying for this increase in the age limit for PINS.

SENATOR RATH: Okay, I believe we probably spoke about that two weeks ago.

But to revisit, let me say that it's a firm belief that, number one, the number of young people who need aid as PINS or need to be put in a PINS position will be decreased severely -- I shouldn't say severely, let me use another word - dramatically. Because it's really felt that a lot of young people can use the direction and the opportunity to be in their homes between ages 16 and 18, and a lot of growing up goes on during those particular years.

And we are looking right now at a survey of the information as it starts to come

in -- and I know we spoke two weeks ago about unfunded mandates onto the counties. And it is no intent of anyone to see that there will be unfunded mandates. We're hopeful that the diversionary process and the reduction of people involved will cover some of the -- what might be costs, additional costs.

And we are expecting also to identify clearly what those additional costs might be. Because we know Family Courts are already talking to us about what those might be. And we're looking for some additional dollars if they're necessary quickly. But when next year's budget comes up, we'll be taking that into serious consideration, Senator Duane.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm still not

sure if -- and I assume -- I can't imagine that there wouldn't be an increase in costs, just because the number of young people up to the age of 16 will probably remain somewhat constant and there will be more people between the ages of 16 and 18. Otherwise, we wouldn't even be voting on this bill.

So I'm wondering whether or not the counties will pay for this or whether the state will reimburse.

SENATOR RATH: At this point - at this point, there is no method for the inclusion of dollars for the counties. But as we spoke of two weeks ago, there is a study and there is money in the budget for the study that will show us what those costs might be.

And we're also looking for some dollars to cover some costs. Now, I can't tell you what that is right now. But it looked like there was some money in the budget that might cover some of these costs.

And we're very cognizant of the concerns that the counties have. My chairmanship being Local Government, I talk to these folks all the time. And we are

cognizant that they're concerned.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Could the sponsor be more specific about where these state funds are coming from that she's identified?

SENATOR RATH: I cannot be more specific at this time. I just learned about it today, that there may be some monies in the budget that could be diverted in that direction. And we're looking into it.

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

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: When the sponsor finds the source of these unidentified funds, if she could notify me as soon as possible.

SENATOR RATH: Sure. I'll be very glad to, Senator Duane.

SENATOR DUANE: And through you, Mr. President. If that funding doesn't come through, then is it the expectation that the counties will pay for this?

SENATOR RATH: Senator Duane, you are touching a very respondent chord in me, because I have a lot of concern about who pays for what, whether it's the counties or whether it's the state, on a lot of fronts that we deal with. And this is just another one of them.

I mean, we have -- we have many. We argued it the night on the floor on the HCRA issue. We talk about it in relation to the prisoners. We talk about it in relation to a lot of items.

And yes, I'm extremely aware of this. And as I said, you're touching a very respondent chord.

SENATOR DUANE: Through you, Mr.

President, if the sponsor would continue to yield.

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I believe that when we last discussed this legislation that the budget had not yet been passed. Or is - am I -

SENATOR RATH: No, if it was, it was just about at the same time. I think this happened after the budget passed, Senator. I think it was after.

In fact, I know it was after, because we -- because I was able to say to you that day that the money is there for the study. Because that was what had been at loggerheads, because which came first, getting the study done or getting the legislation done.

SENATOR DUANE: Through you, Mr. President. I believe that the last time we debated this bill was April 18th. And while I

think that the committees had met, I don't think that we had yet passed the budget.

SENATOR RATH: Well, you know, you could be right, that the committees -- and I had heard or knew that this was going to come forward out of the conference committee and there was no reason to believe that it was going to change.

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

ACTING PRESIDENT MEIER: Senator Rath, do you yield?

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: I'm wondering if the sponsor would consider starring this bill until we had a little more clarity on where it was that the money would come from to pay for it, whether or not we would expect the counties to pay for it or whether there is a funding stream from the state.

SENATOR RATH: Mr. Chairman, through you -- I guess I'm taking a page from

Senator Duane's book. The -- no, I will not star the bill.

I don't want there to be any expectation that whatever costs there are are going to be picked up. What I'm looking at is trying to see if there is a place where there are some dollars that might provide some relief if there is a serious cost somewhere.

Right now, again, I don't want any expectations to go up. This is what -- this was what was holding the bill up in many regards for 25 years, was because people were saying you've got to provide for the costs of this thing. Now the Assembly has seen the wisdom of moving forward with this in order to save these young children -- young people. They're not really children, maybe, between ages 16 and 18. Maybe they are, I'm not sure.

But we need to get this tool in the hands of the law enforcement agencies and there for the protection of parents who are attempting to keep their children in their homes between ages 16 and 18.

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

yield.

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: If, as I believe most of us here believe, that it is important to increase the PINS age to 18 -- and I think that there's pretty much unanimous agreement that that is what we should be doing, the responsible, the just thing to be doing -- if it is that important, should we not then also provide for the funding in this legislation or at the very least make it clear that under no circumstances will this be an unfunded mandate to the counties?

SENATOR RATH: Senator Duane, the thing that held this up for between 20 and 25 years was the fact that no one could come to any kind of a conclusion as to what it might cost.

There was a bill in the other house that was looking for -- I believe it was $50 million. And this house felt that that was

way beyond anything that it might possibly cost, and that there might be a proliferation of services spring up to cover what was anticipated that never would be.

And so the conclusion of it has been that we're going to go forward. The implementation date of this is when? Let me just take a quick look. Because we may not be -- there may not be an awful lot of time. It seems to me that there's a rather short time frame on this.

November 1st implementation date. So that gives us two months of experience before we actually get to a point where we would now be into the counties' next fiscal year.

And the study that's going to go forward will start immediately. And I would tell you, Senator Duane, I had a -- what I would call a quick review done in one of my counties upstate two years ago as we were working forward to this point. And the information that came back to me demographically as to how many young people might be expected to go into the program in

relation to the experience they had had with those that were in the program, in relation to how many there were in the county, and the kinds of services that they needed -- because they were pounding on me because of the serious concern of what the costs would be.

And they came back to me and said, It's really not going to be anywhere near what we thought it was going to be in terms of cost. And so, again, it was a quick study. I don't want to go into detail on it. But I just do need to tell you I was assured through just that much that it wasn't going to cost a whole lot of money.

SENATOR DUANE: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: Thank you, Mr. President.

I totally support increasing the age of PINS to 18 so that those who are requiring supervision as well as those who may require supervision from 16 years of age on get the supervision that they need.

That said, if this battle has been going on for years and years and years, I don't understand why we haven't looked at what the costs of this program would be. The issue is not whether this costs $1 or $50 million, the issue is who is going to pay for that.

We've set up a system here where we will now be requiring counties to accept young people into the PINS program, and yet we have not set up a system for them to be reimbursed. And so we have in fact made it possible that this will be an unfunded mandate to the counties.

Now, if we have the guts to increase the age to 18, we should also have the guts to put into place a funding stream at the same time, through some kind of state funding mechanism, so that it doesn't make it so that a county would have to do it.

Now, it's possible, I guess, that a county might be able to opt out of this. And yet again, that's made it possible for these young people in need of supervision to not get the supervision they need, depending on what county it is that they're living in.

So all around, I believe that while I'm going to vote for this, I would prefer to vote for it with the proviso that the state would reimburse the counties. I think that's the responsible thing to do. We should put our money where our mouths are and back up what our philosophy is with the dollars to actually make it happen.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: Mr. President, if I might, the miracles of our electronic world have once again come to our rescue. And a staff member who knew more than I do, certainly, about where this money is in the budget has called to advise that the family assistance budget has $23 million for family preservation and foster care diversion.

And that is where we are looking, Senator.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Morahan, on the bill.

SENATOR MORAHAN: Senator Rath just brought up a point that I was going to add to the debate.

But I want to point out quickly that one of the major hopes behind this bill, it's really a parents' bill. We're not looking for the children to get into the supervision. We're not asking the counties or necessarily envisioning that the counties are now going to be overburdened with the cost.

What we're looking for here is to give back parental control to parents of the young boys under 18. And I think that's really a key element of the bill that so often gets overlooked.

Thank you, Mr. President.

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.)

ACTING PRESIDENT MEIER: Senator Duane, to explain his vote.

SENATOR DUANE: Thank you, Mr. President.

You know, I'm glad that there's some funding, the 23 million. I don't specifically remember that item in the budget. And I can't say with absolute knowledge that that money is also not spoken for in other ways.

But that said, that can't possibly cover the cost, for instance, of all the elements of the PINS program for the 16-to-18-year-olds, like probation and home study and all of the other elements that go along with it.

So again, while that's a nice small start, I'm still unclear that that money is actually dedicated towards this for the 16-to-18-year-old increase in age. But also it's inconceivable to me that that would be anywhere near enough money for the full range of programming that's needed for PINS.

So again, I'm going to vote for it

because I'm so much in favor of 16-to-18-year-olds being covered by PINS, but with real trepidation that we're going to end up dumping the cost of this into the laps of the counties in the form of an unfunded mandate. And that's just -- I mean, if we're going to do mandates, we ought to be funding them.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane will be recorded in the affirmative.

The Secretary will announce the results.

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 307, by Senator Kuhl, Senate Print 3243, an act to amend the Alcoholic Beverage Control Law, in relation to the imposition.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Kuhl, an explanation has been requested of Calendar 307 by Senator Duane.

SENATOR KUHL: Thank you, Mr. President.

This bill is a very simple bill to understand. It provides another mechanism for enforcement when people who are violators of the Vehicle and Traffic Law don't comply with the fines that are imposed by local justices. It allows for a suspension of their license pending their payments.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you. If the sponsor would yield, please.

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

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: As I understand it, this deals with the intent to consume by persons under 21 years of age.

SENATOR KUHL: I believe that's correct.

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

yield.

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

SENATOR KUHL: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: If suspending the license of someone under 21 years of age is a good idea, why isn't it a good idea to suspend the license of a person who breaks this law no matter how old they are?

SENATOR KUHL: Perhaps you can answer that better, Senator, than I can.

I'm only concentrating, Senator, on this particular proposal. It came to my attention by several of my local justices of the peace that when we had young people who were violating the ABC laws, that in fact they were not paying the fines. They were just kind of, if you will, flaunting in the face of the local justices this violation.

So they felt that this was an adequate means of enforcement. And I happen to believe that they're correct.

SENATOR DUANE: Through you, Mr.

President, if the sponsor would continue to yield.

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

SENATOR KUHL: I'll yield for another question, yes.

ACTING PRESIDENT MEIER: The sponsor yields for one question.

SENATOR DUANE: What about a 45-year-old person who fails to pay their fine? Should they not also be subject -- why are we being harsher with people under 21 than we are for people who are over 21? It seems to me the law is the law and everybody should obey it the same way.

SENATOR KUHL: Well, Senator, if you would refer to the law that we're talking about, we're talking about underage consumption. Last I knew the age of consumption, this age was 21, not somebody 45. They're perfectly legal to consume alcoholic beverages.

So this law, this proposed law, deals with a very specific purpose and only that purpose now. So I think you probably can

answer your own question if you just review the material that's in the bill.

SENATOR DUANE: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: As someone who actually has read the bill, this is talking about people who don't pay their fine. This is not about who it is and who isn't who has open containers, it's about people who are not paying their fine.

So since the bill is about people who are not paying their fine, then the law should treat everyone equally, I believe, and we shouldn't just single out people who are under the age of 21. The law is the law in terms of paying fines, whether you're 45 or you're 19.

I think that the right thing to do in this state is to treat all people equally when they break the same law. So I would encourage my colleagues to vote no and to not be discriminating or treating more harshly people under the age of 21. I don't think

that a 19-year-old should be treated more harshly for breaking the same law that I break.

Thank you, Mr. President.

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 391, by Senator Balboni, Senate Print 6009A, an act to amend the Retirement and Social Security Law, in relation to the participation by the Henry Viscardi School.

SENATOR HEVESI: Explanation.

ACTING PRESIDENT MEIER: Senator Balboni, an explanation has been requested of Calendar 391 by Senator Hevesi.

SENATOR BALBONI: Thank you, Mr. President.

This bill would allow the Viscardi School, located in Roslyn, New York, which basically serves as a school for children who are predominantly in wheelchairs, to provide them with the ability to join the retirement system at the election of the employer, as do the other eleven 4201 schools for the deaf and the blind.

ACTING PRESIDENT MEIER: Senator Hevesi.

SENATOR HEVESI: Mr. President, would the sponsor yield to one question, please?

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: The memo in support of this legislation says the following: Employees of all of the other 4201 schools in New York State are eligible to participate.

My question is, why is this one school exempted if they have received the classification of being a 4201 school?

SENATOR BALBONI: The legislation was written for the 4201s prior to Henry Viscardi being designated as a 4201 school. And therefore, when it was written, they were not included in it.

It's clearly meant that it's supposed to encompass all of them. They just -- they thought they could do this without legislation. We've got gotten an opinion from the Comptroller's office that they cannot.

SENATOR HEVESI: Mr. President, through you, if the sponsor would continue to yield.

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: So the original legislation was flawed, and as a result we have this situation now and there's nothing

that should prevent this school -

SENATOR BALBONI: Actually, the original legislation referred to schools that had deaf, dumb and blind children. And obviously, as you know, that that's no longer an appellation we choose to use in this state.

And so what this evidences is a broadening, ever so slightly, of the school to include individuals who are in wheelchairs.

SENATOR HEVESI: Thank you, Mr. President.

SENATOR BALBONI: Mr. President.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: I'd like to thank Senator Hevesi for his questions.

And let me just, in closing, state the following. I've had many wonderful opportunities in this job representing the people of my district, but none so gratifying as actually going to the Henry Viscardi School.

I would invite anyone in this chamber to do this. These students are miracles in their own right. They are

wonderful, wonderful students. The education provided is tops in the nation. And it is really one of the gems of New York State.

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, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 754, by Senator Spano, Senate Print 1469C, an act to amend the Social Services Law, in relation to unfounded reports.

SENATOR MORAHAN: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 756, by Senator Saland, Senate Print 3952, an act to amend the Family Court Act, in relation

to the placement of children.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Saland, an explanation has been requested of Calendar 756 by Senator Duane.

SENATOR SALAND: Thank you, Mr. President.

Mr. President, what this bill would do would be to permit a court where a child, pursuant to a foster-care placement, had been placed with a relative or other suitable person, to permit the court within its discretion to extend the continuation of that foster-care placement and do so not under the current constricts of the law, which basically say there shall be a one-year extension, but to permit the court to provide for an extended placement, thereby obviating the need for the family member or relative to continuously come back to Family Court.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR DUANE: Thank you, Mr. President. Would the sponsor yield, please?

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you.

I'm wondering whether or not the sponsor could foresee a situation in which a Family Court gave a child to a grandparent or another relative for over a year and, say, the mother was in treatment -- alcohol or drug treatment, say, or whatever -- and then the mother can't get the child back after a year because the other relative doesn't want to give them up.

SENATOR SALAND: First, let me make a slight, if I may, correction in my opening remarks. I referred to this as foster care. This obviously is not a situation involving foster care, because the placement has been done with a relative.

In response to your question, Senator Duane, the court in its discretion, at that time and place when it would have

extended that placement, I'm sure would have considered whatever the mother -- if the mother was the parent who had released the child into the custody of the relative, whatever her status was at that particular time.

If events were to change and for some reason or other that mother now believed that she was more appropriately the person with whom that placement and, in effect, custody should reside, she would have the ability to make application to the court where the order was entered, the Family Court.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Is it possible - I've been de-miked. Is it possible that a one-year -- that -- I have a loud voice, but I

don't want anyone to strain.

Is it possible that having the one-year limitation might make it mandatory for the Family Court to reevaluate the situation, as opposed to letting more than a year go by? I'm just wondering whether or not it's a good idea to keep the year limitation, because it forces the court to perform oversight at least once a year.

SENATOR SALAND: I would think this would be a desirable end to seek, inasmuch as these placements with relatives are not technically the foster-care placements in which we know there are certain reimbursements or funding provided to the family or person with whom the child is placed.

There really is -- we're not talking about financial remuneration here. And to chase people back and forth into Family Court where a court does not believe that there's anything adverse to the interests of the child and chooses to extend the placement for a greater period of time, generally because of the relationship of the child to

the person with whom he or she has been placed -- i.e., a relative -- I would think that that certainly is effective, efficient, and recognizing of the desire not to impose upon these relatives by bringing them back and forth.

Again, keeping in mind, as I responded to your initial question, if the mother in the example you gave wishes to dispute this, there's nothing to prevent her from coming back to Family Court and requesting a hearing.

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

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you.

How is this bill consistent with the Adoption and Safe Families Act?

SENATOR SALAND: The second part

of the bill, or the second portion of the bill containing new language, is consistent with the language in ASFA.

And there are references in several places in the ASFA bill which we did last year -- I have a copy of the bill in front of me, and I'm looking, for example, to page 25. And it makes reference again to the same 60-day period that you see referred to between lines 12 and 17 in the bill.

SENATOR DUANE: Thank you. And if the sponsor would continue to yield.

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

SENATOR SALAND: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Does that mean that the time frames in the Adoption and Safe Families Act would automatically be in effect? Or what are -- if we're removing the year limitation, what will supersede -- what time limitation will there be, or will there be any time limitations?

SENATOR SALAND: You will have the same 15-to-22-month time period that you have in ASFA.

SENATOR DUANE: And I think I have one final question -- which I've totally lost. Thank you. Thank you.

SENATOR SALAND: Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 120th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 845, by Senator Wright, Senate Print 7012, an act to amend the Executive Law and the State Technology Law, in relation to the Office for Technology.

SENATOR COPPOLA: I withdraw my request.

ACTING PRESIDENT MEIER: Read the last section.

Senator Paterson, did you request an explanation?

SENATOR PATERSON: Yes, Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, we don't need an explanation on that bill.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the same date as Section 2 of Chapter 4 of the Laws of 1999.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 59.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 852, by Senator Nozzolio, Senate Print 6148, an act to amend the Executive Law, in relation to crime victims.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Nozzolio, an explanation has been requested of Calendar 852 by Senator Duane.

SENATOR NOZZOLIO: Thank you, Mr. President.

This measure is to expand the current Son of Sam Law to include the profits from non-sanctioned inmate ventures as those which may be subjected to civil suits brought by crime victims.

Under the current Son of Sam Law, only those profits from the crime -- that is, profit made by criminals as the direct result of their crime -- will be subjected to Son of Sam Law protections.

SENATOR DUANE: Would the sponsor yield to a question, please?

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Doesn't DOCS doesn't already stop this now? Why do we need the legislation?

SENATOR NOZZOLIO: Profits made by criminals directly and indirectly may or may not be stopped by DOCS, Mr. President.

That we found artwork that Arthur Shawcross was actually trading and venturing over the Internet through different brokers. And it just happened by accident that we were able to find this type of business activity.

It's difficult for DOCS to carry and find everything. And that certainly we say that DOCS is doing a good job in restricting, in most cases, businesses by inmates in prison. It's not foolproof. And that we certainly want to ensure that all is done to prevent the profit from this type of unsanctioned behavior from going to anyone else but the crime victim.

That's one thing that is not in the statute or not in the policy now, Senator, that the activity may or may not be caught in time. But the fact of the matter is profits could occur. And if they do, we want to make

sure that the crime victim is the recipient of those profits.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: If we lay aside that there's really nothing in this bill which makes it any easier or harder for DOCS to catch people making profits, except that a law is passed -- although I doubt that a memo will go out to the 70,000 people in jail that they're liable under this law. I believe that, like I, they've all heard what happened Arthur Shawcross when it was discovered that he was selling his paintings.

I was wondering if the sponsor was familiar with what happened to Arthur Shawcross.

SENATOR NOZZOLIO: Mr. President,

I am extremely knowledgeable about what happened to the victims of Arthur Shawcross, that they all died. He was a serial killer. He certainly, in engaging his crimes, would have been subjected to the death penalty had the death penalty been in fact in law during the 1980s when he committed his crimes.

What we want to do with this measure is to ensure that the spirit of the Son of Sam Law is extended through all criminal -- all ventures by criminals and that no criminal be able to profit from the notoriety of their crime.

Now, Arthur Shawcross's paintings may not have been the direct result of his criminality, and that he -- to be able to market those paintings, certainly it was the indirect result of his criminality. That in effect because of his crime being so sensational, he found a market, albeit a - you hate to think of who would be purchasing that type of artwork. But nonetheless, people are buying that artwork because of the sensational nature of the artist.

And what we're saying here is

certainly the victims of those criminals should be remembered first, rather than the profit motive because of the notorious crime occurring.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Just to refresh everybody's memory of what my question was, my question was what happened to Arthur Shawcross. I think everybody, including myself, in the State of New York knows what happened to the victims of Arthur Shawcross. That was not my question.

My question was whether the sponsor knew what happened to Arthur Shawcross after it was discovered that he was selling these paintings. Although I will give a hint to everybody. Actually, he wasn't selling his

paintings. He did send paintings to dealers who sent him clothes and things like that. The dealers did sell paintings.

There's no evidence that he made any money, although he did get, it is true, material objects like shoes and clothes and probably food -- and not cash -- by the sale of the paintings by the dealers.

But I'm just wondering whether the sponsor -- if I could just ask the question again that didn't get answered, if he knows what actually happened to Arthur Shawcross when it was discovered that he had sent paintings to dealers.

SENATOR NOZZOLIO: Yes, Mr. President, I'd be glad to answer Senator Duane's question.

I am reading from a news release from the Department of Correctional Services dated September 17, 1999, that indicates Arthur Shawcross had his arts and crafts privileges suspended on September 10th, one day after the department learned that eBay was conducting public auctions on a variety of Arthur Shawcross's artwork.

An investigation determined that Arthur Shawcross should be sent and confined to special housing, and he received, because of those violations, a sentence to two years of special housing.

It should be also underscored that Mr. Shawcross, who was age 54 at the time of this release, is serving a term of 250 years to life for his crimes.

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

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

SENATOR NOZZOLIO: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Does the sponsor believe that two years in an SHU, probably double-bunked, and five years without any art privileges, does he believe that that's a fitting punishment for what Arthur Shawcross did in addition to his several lifetimes' worth of time to which he had already been

sentenced?

SENATOR NOZZOLIO: Mr. President, through you. I'm not a judge, I'm not a disciplinarian within DOCS. But frankly, I think anything done to Arthur Shawcross would be pale in comparison to what he has done to victims that he has murdered, or to the State of New York, which has been the unfortunate total victim of his criminality.

Removing his art privileges I think are de minimis in terms of the havoc that he has wreaked on the State of New York.

SENATOR DUANE: Thank you.

Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: Again, I don't believe this legislation is necessary if we just look at the punishment that Arthur Shawcross got for his having sent artwork to dealers or whoever, weirdos out there, in exchange for clothes and shoes and maybe candy bars. And so he didn't really profit except for being able to walk around the institution more comfortably.

And being punished by two years at an SHU, when I would submit that one day in an SHU is cruel and unusual punishment, and not being able to paint for five years, even though clearly painting is something which has a rehabilitative value for Mr. Shawcross, that we don't need this legislation.

In fact, there's plenty of punishment to go around for people who are already incarcerated. And particularly for someone who is incarcerated, as I say, for several lifetimes' worth of years, to then additionally punish such a person by putting them in an SHU and by not letting them have this form of recreation I think is cruel and unusual punishment.

I don't think we need to enshrine this kind of inhumanity in legislation. So I'll be voting no.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 857, by Senator Alesi, Senate Print 7076, an act to amend the State Administrative Procedure Act, in relation to notice.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MEIER: Senator Alesi, an explanation has been requested by Senator Stachowski.

SENATOR ALESI: This bill would exclude cable television companies from the State Administrative Procedures Act, much the same way as some utilities and some telecommunications companies are already excluded.

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: Would the sponsor yield for a question or two?

ACTING PRESIDENT MEIER: Senator

Alesi, do you yield for a question?

SENATOR ALESI: Yes, Mr. President.

SENATOR STACHOWSKI: Through you, Mr. President.

Senator, there's a concern here that in the case of cable television companies and their local negotiation with the local municipality, oftentimes, in setting up their system, that if we have a change in companies and there's no public hearings and those things are eliminated, would this leave those municipalities and therefore the people that live there at a disadvantage in the change because we're eliminating this public forum?

SENATOR ALESI: Through you, Mr. President. No.

SENATOR STACHOWSKI: Can -- Mr. President, if -

ACTING PRESIDENT MEIER: Senator Stachowski.

SENATOR STACHOWSKI: -- he would continue to yield.

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

SENATOR ALESI: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR STACHOWSKI: I appreciate the brevity of your answer, but I would ask if you could just give me a few reasons why that's the case, why it would not leave the local municipalities and the people that live there at a disadvantage if we don't have these public hearings.

SENATOR ALESI: In response to the question, the municipalities, in granting the operating franchise agreement, can at any time with somebody new make amendments. And in the course of making those amendments, the public good would be served.

But to enlarge on the underlying purpose of this bill, by requiring cable companies to fall under the State Administrative Procedures Act when telephone companies and utility companies are not required to, we're forcing them into a duplicative set of circumstances as far as the authorization to operate.

And in this very fast-changing day

of cable television, requiring telecommunications capabilities and Internet capabilities, there are incumbent phone companies and utility companies that already have the ability to do that. And by forcing the cable companies into the duplicative process, it renders them to be a weak competitor.

And so this bill, by removing that, would allow them to be a stronger competitor, and the competition that would result would serve the public good.

SENATOR STACHOWSKI: Mr. President, if the sponsor would yield to one last question, I think I can clarify -

ACTING PRESIDENT MEIER: Senator Alesi, do you yield?

SENATOR ALESI: Yes.

SENATOR STACHOWSKI: -- I think I can clarify pretty much what I wanted to ask. And I'm sorry I was a little bit unclear.

Mr. President, through you. Senator, would you say then that when the purchase is made, the old contract still stands through its termination or through its

expiration time, the contract that is already in place with the cable company that's being bought and that municipality, that contract still stays whole?

Because basically that's my question. If the contract is still in effect, then we don't have a problem with this bill at all.

SENATOR ALESI: Through you, Mr. President. The contract would most likely stay in place because they're buying the assets, and the contract would be deemed an asset. And because they'd be buying that asset, it wouldn't be changed. And therefore -- and if it were, then, they would have to go back through the application process at the municipal level.

And under this bill, as long as they have that process available at the municipal level, it's not needed at the state level.

SENATOR STACHOWSKI: Thank you.

SENATOR ALESI: Thank you.

SENATOR HEVESI: Mr. President.

ACTING PRESIDENT MEIER: Senator

Hevesi.

SENATOR HEVESI: Mr. President, would the sponsor yield for a question or two?

SENATOR ALESI: Yes.

ACTING PRESIDENT MEIER: Senator Alesi, do you yield?

SENATOR ALESI: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Thank you.

Senator, if I can get a little bit specific with you, to your knowledge does the City of New York require in its municipal franchise agreements that a public review and approval process go into effect should a cable company decide that they want to transfer control?

SENATOR ALESI: It's my understanding, through you, Mr. President, that all municipalities do.

And again, under the circumstances of that being the case, then the State Administrative Procedures Act would be redundant.

SENATOR HEVESI: Mr. President,

through you, if the sponsor would continue to yield.

ACTING PRESIDENT MEIER: Senator Alesi, do you yield?

SENATOR ALESI: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR HEVESI: Senator, I'm just a little bit confused. Your memo in support suggests that most municipalities require that prior approval. You're suggesting now that all of them do?

SENATOR ALESI: New York City would be considered under the term "most municipalities" in this instance.

SENATOR HEVESI: On the bill, Mr. President.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: If New York City is covered under this agreement or has their own regulations that would require this type of review, then I'm much more comfortable with this. If "most" is all, I'm also comfortable with it.

But if "most" is most, then that leaves me with some trepidation here, because there may be municipalities that decided not to implement their own agreements to ensure that there's a public review process pursuant to transfer of control, because they knew that the state had a system in place that would protect against circumstances by which this type of transfer would not be beneficial to the municipality.

If I was drafting this legislation, I would probably suggest that this -- we could go ahead and do this to foster competition and expedite the process, but I would have included a provision that suggested if any municipality in New York State did not provide for such a review process, then the original review process that is current law would go into effect.

Not enough to make me vote against this legislation, since New York City, according to the sponsor, does stipulate in their franchise agreements that there will be a review process. But it's something that I think would make this a better piece of

legislation.

But I intend to vote in the affirmative.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the same date as Section 2 of Chapter 416 of the Laws of 1998.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 873, by Senator Padavan, Senate Print 4670, an act to amend the Executive Law, in relation to voting members.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Padavan, an explanation has been requested of Calendar 873 by Senator Duane.

SENATOR PADAVAN: As the bill

indicates very directly, this allows the superintendent of the State Police to authorize one of his representatives to replace him or to represent him at a meeting of the Law Enforcement Agency Accreditation Council.

Similarly, the police commissioner of the City of New York can designate a surrogate who is a member of the department who has achieved the rank of captain or above.

SENATOR DUANE: Would the sponsor yield for a question?

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you, Mr. President.

What is the Law Enforcement Accreditation Council?

SENATOR PADAVAN: As you know, we have accreditors that go around and accreditate hospitals to determine that they're meeting certain specified standards of

performance, procedure, and so on.

Well, that's what this council does with police departments. As you know, there are many small police departments around the state. And they serve that function.

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

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

SENATOR PADAVAN: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: How many members are there of the council?

SENATOR PADAVAN: I don't recall, Senator.

SENATOR DUANE: I don't want to -- it's not a big deal, but I mean like 10 or like 50 or like 3 or -

SENATOR PADAVAN: Somewhere between 3 and 50.

(Laughter.)

SENATOR DUANE: Very helpful.

All right, thank you.

SENATOR PADAVAN: You're welcome.

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 878, by Senator Goodman, Senate Print 7469, an act to amend the Public Officers Law, in relation to the defense and indemnification.

SENATOR DUANE: Explanation, please.

ACTING PRESIDENT MEIER: Senator Goodman, an explanation has been requested of Calendar 878 by Senator Duane.

SENATOR GOODMAN: Senator Duane, it's always a pleasure to respond to your repeated questions of my legislative program. I thank you for your interest and curiosity.

This bill does the following. Its purpose is to afford defense and indemnification protection for the employees of the Governor Nelson A. Rockefeller Empire State Plaza Performing Arts Center, fondly known as the Egg.

The existing law provides substantive and procedural conditions for the defense and indemnification of state officers and employees. Public Officers Law Section 19 relates to reimbursement of defense costs incurred by and on behalf of state employees.

The Egg was created as a body corporate and politic pursuant to Chapter 688 of the Laws of 1979. Under this chapter, employees of the corporation were designated as employees of the State of New York until 1992, when Chapter 436 abolished the designation.

SENATOR DUANE: Through you, Mr. President.

ACTING PRESIDENT MEIER: Senator Duane.

SENATOR GOODMAN: Excuse me, I'm not quite finished. I was just -- the noise

was quite pervasive, so I thought by listening to it I might quiet it.

The bill of the corporation would restore a privilege and benefit the employees enjoyed for the first 12 years that the corporation existed. In 1992, removal of defense and indemnity protection was incident to salaried-employee benefit considerations and not as a calculated undertaking.

I understand you have a question, sir, as to whether private insurance would cover this. The answer is it could be obtained, but at a considerable cost to the state. The legislation which we pass would obviate the need for such an expenditure.

Although the corporation has the ability to -- without the defense and indemnity protection, it's increasingly difficult for the corporation to attract new directors.

And that, I think, gives you the substance of the essence of the bill.

SENATOR DUANE: Thank you, Mr. President. Would the sponsor yield?

ACTING PRESIDENT MEIER: Senator

Goodman, do you yield for a question?

SENATOR GOODMAN: Yes, I will, Senator.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: Thank you. Isn't probably the best solution to this to just have the state take the Empire State Plaza Performing Arts Center over again? If we're going to -

SENATOR GOODMAN: Senator, that's not considered an appropriate solution. This is a matter that has a considerable history. It is an arts institution that -- it's being carried on its own bottom for a group of organizational reasons that relate to its performance and its mission.

SENATOR DUANE: Through you, Mr. President, I'm still -- if we're going to pay the freight for the insurance -- I mean, the cost for the insurance is the same whether it's under the present system and they have to pay it themselves or whether the state pays it.

So I don't think there's any cost

difference except for the state is going to pay one way or the other. So why wouldn't it be just as well if the state took it back over?

SENATOR GOODMAN: There's no cost to the state unless some action is brought against the individuals in the Egg. And if it's brought, then the defense will be taken up by the state in an appropriate fashion. As you may know, the Attorney General defends state employees against such problems.

No cost factor involved, barring any investment of time. But this is fixed overhead in any event.

SENATOR DUANE: Through you, Mr. President. Could the sponsor tell me if there's been a lot of lawsuits lodged against the officers of the arts center?

SENATOR GOODMAN: No, there have not.

SENATOR DUANE: Does the sponsor anticipate that there would be lawsuits if there haven't been any up to now since 1992, I guess?

SENATOR GOODMAN: It's only with

the greatest reluctance that we would crack such an exquisite Egg.

(Laughter.)

SENATOR DUANE: No one loves comedies and the theater more than I do. But seriously, I'm wondering why it is that we are indemnifying people who probably will never have lawsuits lodged against them.

SENATOR GOODMAN: I think I explained that there's a reluctance on the part of people to come in and become directors of an organization of this sort because of the possibility of what in corporate terms are known as strike suits. I think you're familiar with that term. Nuisance suits and the like.

SENATOR DUANE: And just to reiterate, this was -

ACTING PRESIDENT MEIER: Senator Duane, do you wish the sponsor to continue to yield?

SENATOR DUANE: Yes, please.

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

SENATOR GOODMAN: I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: So this was a flaw of the original legislation which made the arts center a quasi rather than a government facility?

SENATOR GOODMAN: No, it wasn't a flaw. Because as I stated earlier in my explanation, this previously did exist but at the time that there was an alteration in the status of this, it was inadvertently dropped. This repairs an inadvertence.

SENATOR DUANE: And post 1992 -

ACTING PRESIDENT MEIER: Senator Duane, do you wish the sponsor to continue to yield?

SENATOR DUANE: Yes, please.

ACTING PRESIDENT MEIER: Senator Goodman, do you yield?

SENATOR GOODMAN: I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: And prior to 1992, the center had difficulty having people serve on its board?

SENATOR GOODMAN: That's what we're advised, yes. Because of this problem.

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

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 954, by Senator Maziarz, Senate Print 7794, an act to amend the Town Law and the Public Officers Law, in relation to the residency.

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Morahan, that concludes the reading of the controversial calendar.

SENATOR MORAHAN: Thank you, Mr. President. Is there any housekeeping at the desk?

ACTING PRESIDENT MEIER: Yes, I believe we have a motion.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

On behalf of Senator Padavan, on page number 35 I offer the following amendments to Calendar Number 897, Senate Print Number 6507, 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 MARCELLINO: Thank you.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Yes, Mr. President. There being no further business to come before the Senate, I move we adjourn until Tuesday, May 23rd, at 3:00 p.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Tuesday, May 23rd, at 3:00 p.m.

(Whereupon, at 4:15 p.m., the Senate adjourned.)