NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 6, 2000

3:12 p.m.

REGULAR SESSION

LT. GOVERNOR MARY O. DONOHUE, President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

THE PRESIDENT: 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.)

THE PRESIDENT: With us to give us the invocation is the Reverend Peter G. Young, from Blessed Sacrament Church in Bolton Landing.

REVEREND YOUNG: Thank you, Governor.

Let us pray.

As we are inundated with rainy weather, we have thoughts of those suffering with flood conditions. We know that other states are in a drought and intimidated with out-of-control fires. We need to express our attitude of gratitude to our Creator for the New York State environment, with all of its natural beauty.

As we get near the end of the session, we ask You, O God, that our

legislators have the summer recess to be renewed in mind and spirit.

May we especially remember this D-Day/Omaha Beach anniversary and our brave troops that gave their lives for our freedom. They are our heroes and are examples of dedication that we will always be grateful to for the freedom that we today enjoy.

Amen.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, June 5th, the Senate met pursuant to adjournment. The Journal of Sunday, June 4th, was read and approved. On motion, Senate adjourned.

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from

state officers.

Motions and resolutions.

Senator Farley.

SENATOR FARLEY: Thank you, Madam President.

On behalf of Senator Nozzolio, on page 51 I offer the following amendments to Calendar 840, Senate Print 7156.

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

SENATOR FARLEY: And would you also remove the star from that bill.

THE PRESIDENT: So ordered. The star is removed.

SENATOR FARLEY: Madam President, I wish to call up Senator Padavan's bill, Senate Print 7893, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1212, by Senator Padavan, Senate Print 7893, an act to amend the General Municipal Law.

SENATOR FARLEY: Madam President,

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

ACTING PRESIDENT MEIER: The Secretary will call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR FARLEY: And I ask that the bill be restored to the order of third reading.

ACTING PRESIDENT MEIER: So ordered.

SENATOR FARLEY: You're not Madam President. Mr. President.

ACTING PRESIDENT MEIER: Your powers of observation are amazing, Senator Farley.

SENATOR FARLEY: Thank you. What happened to the President?

Mr. President, I'll offer the following amendments to these following Third Reading Calendar bills.

Senator Goodman, page 14, Calendar 471, Senate Print 1105A;

Senator Seward, page 22, Calendar

746, Senate Print 6680B;

For Senator Goodman, on page 24, Calendar 767, Senate Print 5671A;

Senator Skelos, on page 36, Calendar Number 1006, Senate Print 6781;

On behalf of Senator Balboni, on page 36, Calendar 1012, Senate Print 7382;

Senator DeFrancisco, page 38, Calendar 1050, Senate Print 7474;

Senator Seward, on page 42, Calendar 1122, Senate Print 7836;

And Senator Seward again, on page 46, Calendar 1206, Senate Print 7576A;

On behalf of Senator Trunzo, on page 22, Calendar 736, Senate Print 7181A;

And on behalf of Senator Skelos, on page 36, Calendar 997, Senate Print 6800A.

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

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

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Volker, I wish to call up Senate Print Number 4659A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 559, by Senator Volker, Senate Print 4659A, an act to authorize the Office of General Services.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 40.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, on behalf of Senator Skelos I wish

to call up Senate Print Number 12A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 250, by Senator Skelos, Senate Print 12A, an act to amend the Penal Law.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR FUSCHILLO: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

Senator McGee.

SENATOR McGEE: Thank you, Mr. President.

On behalf of Senator Skelos, I wish to call up the bill Print Number 965A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 723, by Senator Skelos, Senate Print 965A, an act to amend the Domestic Relations Law.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR McGEE: Mr. -- Madam - Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

SENATOR McGEE: Mr. President, on behalf of Senator Farley, I wish to call up bill Print Number 6728A, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1169, by Senator Farley, Senate Print 6728A,

an act to authorize the trustees of the State University of New York.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

SENATOR McGEE: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Thank you, Senator McGee.

SENATOR McGEE: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received.

Senator Skelos.

SENATOR SKELOS: Mr. President, are there any substitutions to be made?

ACTING PRESIDENT MEIER: There is one substitution, Senator Skelos.

SENATOR SKELOS: Please make the substitution at this time.

ACTING PRESIDENT MEIER: The

Secretary will read the substitution.

THE SECRETARY: On page 49, Senator Morahan moves to discharge, from the Committee on Rules, Assembly Bill Number 6516 and substitute it for the identical Senate Bill Number 7899, Third Reading Calendar 1277.

ACTING PRESIDENT MEIER: Substitution ordered.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could adopt the Resolution Calendar, with the exception of Resolution 4583.

ACTING PRESIDENT MEIER: The motion is to adopt the Resolution Calendar, with the exception of Resolution 4583. All those in favor signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

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

SENATOR SKELOS: Mr. President, Senator Morahan has consented on Resolutions

4622, 23, and 24 to open up sponsorship to the entire membership. It's been consented to by the Minority. So if anybody wishes not to be on those resolutions, they should notify the desk.

ACTING PRESIDENT MEIER: With regard to those three resolutions, any member not wishing to be a cosponsor should notify the desk.

Senator Skelos.

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

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

Can we have some order in the chamber. Staff and members who have conversations should take them outside.

The Secretary will read the noncontroversial calendar.

THE SECRETARY: Calendar Number 12A, by Senator Marcellino, Senate Print 2543E, an act to amend the Environmental Conservation Law, in relation to authorizing.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

SENATOR SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

SENATOR SKELOS: With the consent of the Minority, if we could have the last section read on Calendar Number 12, Senate 2543E, for the purposes of Senator Spano voting.

ACTING PRESIDENT MEIER: The Secretary will read the last section with regard to Calendar Number 12.

The Secretary will read Calendar Number 12.

THE SECRETARY: Calendar Number 12, by Senator Marcellino, Senate Print 2543E, an act to amend the Environmental Conservation Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first day of

March.

SENATOR SPANO: Mr. President.

ACTING PRESIDENT MEIER: Senator Spano.

SENATOR SPANO: I vote aye.

ACTING PRESIDENT MEIER: Senator Spano will be recorded as voting in the affirmative.

SENATOR SKELOS: Withdraw the roll call, please.

ACTING PRESIDENT MEIER: The roll call is withdrawn, and the bill is laid aside.

THE SECRETARY: Calendar Number 47, by Senator Alesi, Senate Print 4690, an act to amend the Executive Law, in relation to establishing.

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.)

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

THE SECRETARY: Calendar Number 51, by Member of the Assembly Butler, Assembly Print Number -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 203, by Senator Libous, Senate Print 2102A -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 215, by Senator Padavan, Senate Print 1808, an act to amend the Public Authorities Law, in relation to the composition.

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 222, by Senator Maltese, Senate Print 4752B, an act to amend the Vehicle and Traffic Law, in relation to authorizing distinctive license plates.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 307, by Senator Kuhl, Senate Print 3243A, an act to amend the Alcoholic Beverage Control Law and the Vehicle and Traffic Law, in relation to the imposition of driver's license suspensions.

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

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go back to Calendar Number 203, I inadvertently laid that aside for the day.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 203.

THE SECRETARY: Calendar Number 203, by Senator Libous, Senate Print 2102A, an act to amend the Mental Hygiene Law and the Executive Law, in relation to requiring.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

The Secretary will continue to read, regular order.

THE SECRETARY: Calendar Number 354, by Senator Meier, Senate Print 5851A, an act to amend the Social Services Law, in relation to permanently excluding persons.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2001.

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 433, by Senator Larkin, Senate Print 4489, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law and the Workers' Compensation Law, in relation to the New York Jockey Injury Compensation Fund.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 444, by Senator Kuhl, Senate Print 4102A, an act to amend the Environmental Conservation Law, in relation to emergency contracts.

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 463, by Senator LaValle, Senate Print 5377, an act to amend the Education Law, in relation to

indemnification of City University.

SENATOR DUANE: Lay the bill aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 485, by Senator Libous, Senate Print 4913, an act to amend the Mental Hygiene Law, in relation to directing the State Commission.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 492, by Senator Saland, Senate Print 5358, an act to amend the Executive Law, in relation to making technical corrections.

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 SKELOS: Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

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

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

The Secretary will continue to read.

THE SECRETARY: Calendar Number 504, by the Assembly Committee on Rules, Assembly Print Number 9003, an act to amend the Surrogate's Court Procedure Act, in relation to permissible methods.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. This act shall take effect on the first calendar month next succeeding the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 506, by Senator Velella, Senate Print 6789, an act to amend the Administrative Code of the City of New York, in relate to inquiries.

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, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 513, by Senator McGee, Senate Print 3947, an act to amend the Real Property Tax Law, in relation to increasing.

ACTING PRESIDENT MEIER: Read the last section.

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

July.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 550, by Member of the Assembly Weinstein, Assembly Print Number 10427, an act to amend Chapter 606 of the Laws of 1999 amending the Domestic Relations Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 30 days.

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 623, by Member of the Assembly Destito,

Assembly Print Number 9310, an act to amend the Social Services Law, in relation to annual financial statements.

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.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, could we return to the order of motions and resolutions. And may we please take up Resolution Number 4583, by Senator Nozzolio.

ACTING PRESIDENT MEIER: Motions and resolutions.

The Secretary will read Resolution 4583.

Just the title, Senator?

SENATOR FUSCHILLO: May we have

it read in its entirety and move for its immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read Resolution 4583 in its entirety.

THE SECRETARY: By Senator Nozzolio, Legislative Resolution 4583, congratulating the Bloomfield Junior Senior High School Girls Varsity Basketball Team and Coach Phil White on their outstanding season and overall team record.

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

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

"WHEREAS, The Bloomfield Junior

Senior High School Girls Varsity Basketball Team completed their 1999-2000 season with a record of 27 wins and 1 loss. They earned their second straight Section V title in a row and earned their second straight New York State title in a row, which makes this school the only Section V school that has won back-to-back state titles; and

"WHEREAS, In addition, the Bloomfield Junior Senior High School Girls Basketball Team was the Section V Class CC champions, and they were the New York State Public High School Class C champions.

"This powerful team averaged 72 points per game on offense and allowed 41 points per game on defense. The athletic talent displayed on this team is due in great part to the efforts of Coach Phil White, a skilled and inspirational tutor, respected for his ability to develop potential into excellence; and

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

large; and

"WHEREAS, The hallmarks of the Bloomfield Junior Senior High School Girls Varsity Basketball Team, from the opening game of the season to participation in the championship, were a sisterhood of athletic ability, of good sportsmanship, of honor and of scholarship, demonstrating that these team players are second to none.

"Athletically and academically, the team members have proven themselves to be an unbeatable combination of talents revealing favorably on their school. Coach Phil White has done a superb job in guiding, molding, and inspiring the team members toward their goals; and

"WHEREAS, Sports competition instills the values of teamwork, pride and accomplishment, and Coach Phil White and his outstanding athletes have clearly made a contribution to the spirit of excellence which is a tradition of their school; now, therefore, be it resolved that this Legislative Body pause in its deliberations to congratulate the Bloomfield Junior Senior High

School Girls Varsity Basketball Team, its members -- Heathar Shepard, Ericka Bellis, Sarah McWilliams, Kate Headlee, Marissa Lipovsky, Monica Davis, Anne Eshleman, Cori Hept, Elizabeth Hudson, Katie McDonald, Emily Paulsen, Ashley Myers, Jill Hammond, Emily Rauscher, Kim Rogers, Elizabeth Kaufmann, and Leah Hyland -- and Coach Phil White on their outstanding season and overall team record; and be it further

"RESOLVED, that a copy of this resolution, suitably engrossed, be transmitted to the Bloomfield Junior Senior High School Girls Varsity Basketball Team and to Coach Phil White."

ACTING PRESIDENT MEIER: Senator Nozzolio.

SENATOR NOZZOLIO: Thank you, Mr. President. On the resolution.

Mr. President and my colleagues, I very much appreciate the opportunity today to welcome to this great chamber a great group of people from Bloomfield who have excelled in athletics and have given their community and their state great pride.

As the senator representing this community, it is with great pride that I stand and applaud the wonderful contributions of these fine young women, who not once but twice, two years in a row, were successful in winning the New York State Class C basketball title.

But these young ladies are much more than basketball players, excellent as they are in that sport. They are fine ambassadors for their community, they are respectful, they have given great honor to themselves, to their school, and to their families.

Phil White was singled out as the coach, and he has been truly an outstanding coach. I'd also like to recognize with him Keith Shepard, who has two daughters who are involved on the team, and that certainly Keith that given a great amount of his time and effort to this endeavor. Also, Principal Denny Wilcox, who came with the team today on behalf of the Bloomfield Central schools.

We recognize too often those young people who have gone astray. These young

people are right on the mark. And, Mr. President, it is an honor for me to welcome them to this chamber today and thank the Senate for its resolution.

I move the resolution.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, can we return to the reading of the noncontroversial calendar, please.

ACTING PRESIDENT MEIER: The Secretary will continue with the reading of the noncontroversial calendar.

THE SECRETARY: Calendar Number 657, by Senator Volker, Senate Print 6644, an act to amend the Criminal Procedure Law, in relation to youthful offender adjudication.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 658, by Senator Volker, Senate Print 6647, an act to amend the Criminal Procedure Law, in relation to dismissal.

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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 659, by Senator Volker, Senate Print 6974, an act to amend the Criminal Procedure Law, in relation to release of official records.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 734, by Senator Stachowski, Senate Print 6368, an act to authorize the Commissioner of General Services to sell and convey.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 774, by Member of the Assembly Weisenberg, Assembly Print Number 9528A, an act to amend the Insurance Law, in relation to family member coverage.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 60th day.

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 844, by Senator Wright -

SENATOR FUSCHILLO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number

863, by Senator Johnson, Senate Print 759A, an act to amend the Executive Law, the Civil Practice Law and Rules, and the Tax Law, in relation to personal injury awards.

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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 867, by Senator Padavan, Senate Print 1788, an act to amend the State Finance Law, in relation to contracts for architectural and engineering services.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator M. Smith recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 868, by Senator Volker, Senate Print 2273, an act to amend the Executive Law, in relation to civil actions against employees.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 929, by Senator Hoffmann, Senate Print 5292A, an act to amend the Agriculture and Markets Law, in relation to animal population control.

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 966, by Senator Lack, Senate Print 3819, an act to amend the Judiciary Law and the Family Court Act, in relation to compensation.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1109, by Senator Rath, Senate Print 722C, an act to amend the General Business Law, in relation to the regulation of unsolicited commercial electronic mail.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1111, by Senator Nozzolio, Senate Print 1586B, an act to amend the Executive Law and the General Business Law, in relation to credit

reporting.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8. This act shall take effect January 1, 2001.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1135, by Senator Hannon, Senate Print 6986, an act to amend the Public Health Law, in relation to the licensure and testing of applicants.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1146, by Senator Volker, Senate Print 7425, an act to amend the Mental Hygiene Law, in

relation to peace officer powers.

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1226, by Senator LaValle, Senate Print 4910, an act to amend the Criminal Procedure Law, in relation to designating.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1253, by Senator Alesi, Senate Print 1605, an act to amend the General Business Law, in relation to recordkeeping.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 7. 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 1254, by Senator Goodman, Senate Print 2283, an act to amend the Transportation Law, in relation to insurance of household goods.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Kuhl recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1255, by Senator Lachman, Senate Print 2699, an act to amend the Public Authorities Law, in relation to prescribing penalties.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1256, by Senator Volker, Senate Print 3822, an act to amend the Penal Law, in relation to the unlawful wearing of body vests.

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 1257, by Senator Nozzolio, Senate Print 4021A, an act to amend the Criminal Procedure Law and the Penal Law, in relation to mandatory arraignment.

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, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1258, by Senator Velella, Senate Print 4185, an act to amend the Real Property Law, in relation to nonsolicitation.

ACTING PRESIDENT MEIER: Read the

last section.

THE SECRETARY: Section 3. This act shall take effect on the 120th day.

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 1259, by Senator Leibell, Senate Print 5326, an act to amend the Military Law, in relation to payment.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect on the 60th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1260, by Senator Velella, Senate Print 6245,

an act to amend the Civil Practice Law and Rules, in relation to actions to recover damages.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1261, by Senator Seward, Senate Print 6363, an act to amend the State Finance Law, in relation to matching funds.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1262, by Senator Skelos, Senate Print 6821, an act to amend the Civil Practice Law and Rules, in relation to the time to take an appeal.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1263, by Senator Padavan, Senate Print 6958, an act to amend the Penal Law, in relation to illegal possession.

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 1264, by Senator Leibell, Senate Print 7072, an act to amend the Civil Practice Law and Rules, in relation to increasing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1265, by Senator Hannon, Senate Print 7250, an act to amend the Tax Law, in relation to extending.

SENATOR DUANE: Lay it aside,

please.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1266, by Senator Seward, Senate Print 7261A, an act to amend the Insurance Law, in relation to nonresident excess line brokers.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1267, by Senator Velella, Senate Print 7419, an act to amend the Vehicle and Traffic Law, in relation to the reporting of accidents.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1268, by Senator Goodman, Senate Print 7515, an act to amend the Penal Law, in relation to concurrent and consecutive terms of imprisonment.

SENATOR DUANE: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1269, by Senator Alesi, Senate Print 7630, an act to amend the Criminal Procedure Law, in relation to permitting.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1270, by Senator Stafford, Senate Print -

SENATOR FUSCHILLO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 1271, by Senator Rath, Senate Print -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1273, by Senator Leibell, Senate Print 7773, an act to amend the Election Law, in relation to conduct of elections.

ACTING PRESIDENT MEIER: Read the last section.

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

January.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1274, by Senator Padavan, Senate Print 7821, an act to amend the Highway Law, in relation to bridge inspection.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1275, by Senator LaValle, Senate Print 7844, an act to amend the Executive Law, in relation to continuing.

SENATOR DUANE: Lay it aside.

ACTING PRESIDENT MEIER: Can we have some order in the chamber, please.

Lay the bill aside.

THE SECRETARY: Calendar Number 1276, by Senator Rath, Senate Print 7867, an act to amend the Real Property Tax Law and the Agriculture and Markets Law, in relation to making technical and clarifying amendments thereto.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 12. 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 1277, substituted earlier today by Member of the Assembly Robach, Assembly Print Number 6516, an act to amend the Education Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1278, by Senator Marcellino, Senate Print 7949, an act to amend the Executive Law and others, in relation to making funds of a convicted person available to crime victims.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 13. This act shall take effect on the 30th day.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays, 1. Senator Montgomery recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

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

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

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

THE SECRETARY: Calendar Number 12, by Senator Marcellino, Senate Print 2543E, an act to amend the Environmental Conservation Law, in relation to authorizing.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Can we have order in the chamber, please. We'll get through this a lot more quickly.

Senator Marcellino, an explanation has been requested of Calendar 12 by Senator Paterson, I believe.

SENATOR MARCELLINO: Thank you, Mr. President.

Mr. President, my colleagues, we have debated this bill before. It is

well-known to everybody here. This was probably a bill -- or probably one of the first bills that I introduced when I came to the Senate. At the time, it seemed like a good idea. I was trying to help people from exposure to pesticides.

And in my idealism, I felt that everybody would join in and say, Hey, this is a great idea, we should do this, we should all rise up and say exposure to these dangerous substances should be avoided at all costs. And being a good neighbor is a good idea, so let's all jump on and vote for this bill.

Opposition rises from many angles and from many directions. Applicators of pesticides don't like it, for obvious reasons. They see it as an infringement on their right to do business. So we work with the applicator to try to alleviate some of their concerns.

As you see from this bill, it is an E version, a relative rarity in this house. We do not amend that many times, usually. However, this bill has been changed a number of times.

The farmers objected, through their organization, saying that this bill would impose upon them undue circumstances. After reviewing their concerns and reviewing the situation, we agreed with them. So farmers are exempted from this law, for good reason. That doesn't seem to mollify them. They still seem to object to the bill. But we will continue to forge ahead with the issue.

Last year the bill was passed with some limits. It was a downstate bill, predominantly. It controlled or regulated or imposed these rules on the downstate counties of Westchester, the City of New York, Nassau, and Suffolk counties. Which took care of about two-thirds of the population of the state, or brought them under the aegis of the law, where some of the opponents of the bill, some of the environmental opponents, said that the greatest problem for exposure to pesticides and the greatest incidences of concern were occurring.

In the interim, a number of my colleagues have come to me and said that people around in other counties have suggested

that they would like to see or at least be able to avail themselves of the program that is expressed in this bill. So this year we've expanded the bill to include all counties of the state, with the ability of the county to opt in if they so choose.

We are not mandating that the counties follow these rules or these regulations. They are allowed to make that decision for themselves, via their county legislatures. And they can come out and say "we would choose to" or "we choose not to." That is their choice. We are not forcing it on anyone. They can opt in under this legislation.

What this bill does is it authorizes the county to adopt and enforce local laws requiring consumer pesticide use information signs be posted at retail establishments selling general-use pesticides for residential or commercial lawn application, requiring at least 48-hour notice to property owners within 150 feet of a commercial lawn application of pesticide through the air, where such vegetation being

sprayed is 5 feet tall or greater, and notice to property owners within 15 feet where the vegetation being sprayed is less than 5 feet tall, requiring persons performing residential application of pesticides to post markers - in other words, to flag their properties - along the perimeter of the treated property. This establishes penalties for said violations of such local laws.

The bill is -- there is no same-as at this point in time. The Assembly has a different version of the legislation, seeking the same thing but going about it in a different way. As we speak, our staffs are trying to reconcile the two pieces of legislation so that we can have what is known up here as three-way agreement on the bill. They will continue to notice and they will continue to discuss and to try to reconcile the two bills.

There are parts of the other bill in the other house which we find acceptable, and they have indicated to us there are parts of our bill which they find acceptable. And we are trying to reconcile the differences. I

feel confident that those differences can be reconciled, in fact.

How long that will take is another situation. We cannot be sure of that. So we feel that it is better to move forward with the legislation at this time as it is, and continue to negotiate as we speak.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President, I believe there's an amendment at the desk. I would like to call it up, waive its reading, and be heard on the amendment.

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

SENATOR SCHNEIDERMAN: Thank you, Mr. President.

I guess we're going through the same pattern we followed last year, although hopefully the spiral is bringing us closer to the goal of actually having a law on the issue of pesticide notification.

The amendment would essentially

substitute the legislation passed in the Assembly for the proposed bill, for a couple of very simple reasons. I think that there are areas in which the Senate leads and areas in which the Senate follows. And on this issue, I think the Senate is following.

The Assembly has passed a bill mandating a statewide program. Every county in the state would be under the same program and have to provide the same notification for pesticide application. There wouldn't be a hodgepodge of different counties with different rules.

That's a problem, frankly, not just for the children and people who would not get notification if a county opts out, but also for pesticide application companies, who would have to follow different rules in different parts of the state.

The Assembly bill, which this amendment would substitute, also covers schools and daycare centers. Tremendously important, and a glaring omission from our legislation.

I do think we're moving forward on

this. I am hopeful we will have an agreement. I just would urge my colleagues to vote for the amendment. Let's do the stronger bill. Let's do the version that Assemblyman DiNapoli has sponsored. It's supported by more than 50 environmental and health organizations, breast cancer groups, civic associations.

And I think this is a situation where we're not going to make the pesticide industry happy. They're opposed to Senator Marcellino's bill and Assemblyman DiNapoli's bill. Let's do this the right way. Let's protect all the children in our state. And I urge that we vote yes on this amendment, close on this bill immediately.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, it's interesting to hear my colleague's stand. Earlier this year when I put in an amendment in the committee to amend my legislation, my colleague Mr. Schneiderman, who just spoke, put in a bill of his own. The bill of his own was my bill. His bill didn't

include schools or daycare centers. His bill didn't do a lot of other things that he's talking about now.

It was my bill. It is my bill. I assume if it was good enough then, it's bad now, so he must be amending his own bill on this piece. So that's one interesting point.

The other point that we talk about, with a hodgepodge of different rules, the counties would opt in through the same rules. They would all opt into the same program spelled out in this bill. They could not write their own law. They have to opt into the law as it's written in the bill.

Schools are covered under this legislation. However, if you want to go further, schools have independently elected school boards. These are people who are charged and elected by their constituents to set policy for their school districts. One of those policies -- and I know, because I sat on a local school board -- was to protect the health and safety of the students and people who attend or go to the building and use the facilities.

If a school district wished to notify, all that had to be done was the superintendent be told by the board of education to do it. They don't need to be forced to do anything. They don't need to opt into anything. They could do it themselves now. Nothing in the law prevents them from doing it, nothing in the law precludes them from doing it. They have a perfect right if they wish to.

My concern with some parts of the bill -- I won't go into too much detail -- is it treats all the applications the same. When you do that -- this is regardless of health risk, immediate or otherwise. When you do that, you encourage the maximum use of pesticide the first time, rather than to discourage it. You say to the applicator, Come in now with the nuclear weapon, do what you have to do to prevent reoccurrence so you don't have to go back and renotify and renotify and rerenotify.

Spraying, which is treated in the bill as it stands, is the primary concern for us. That is an immediate risk. It puts

anyone in its way at an immediate risk. If I put down bait traps in a school, that does not pose any immediate risk to anybody. Yet under the bill that is being amended -- under this amendment, they would have to proceed and they would have to be given 48-hour notification to put down a roach trap. Which is no immediate problem to anybody but the roach.

I suggest to you that it is flawed to treat all applications the same. They are not. It is incumbent upon us to discourage overuse, which the amendment does not, and to encourage the minimal use whenever possible, and other alternative methods whenever possible, by the applicators.

By making their job onerous and forcing them to come back and return and rereturn, we encourage them to use the worst possible approach, maximum effort. This is something that we do not want them to do. This is something we try to discourage.

So the bill, although well-intended, and the amendment, although well-intended, has some serious flaws. And I would urge because of those flaws that we not

support the amendment, that we in fact vote it down, that we in fact pass the bill that is on the floor now before us so that we can move ahead.

And hopefully with the Assembly's concurrence and with the sponsor in the Assembly's concurrence, our two offices can meet and our two staffs can come together and resolve any outstanding issues, so that ultimately we have a meaningful state law that will protect everyone.

This amendment does not protect anyone. I urge its defeat.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President, just to respond briefly, because I know we have a lot on the agenda.

On the issue of schools, I don't see where schools are -- schools are not covered. There's no plan for schools in this bill. There is -- and there's a companion bill to the bill I introduced that Senator Marcellino referred to, carried by Senator Breslin, that covers schools. His bill plus

my bill gets the job done. So that's why I didn't include schools in that particular version.

I don't disagree with very much that Senator Marcellino said in terms of the intention of the bill, the difficulties passing it. I hope the staffs get together, I hope we get a law.

I do not see any reason why this should not be a statewide law, why you should have some counties in and some counties out and pesticide application companies working in two counties having to abide by different sets of rules.

And I also do think that turf application is a very serious problem. I realize that spraying -- I agree that spraying is a more serious problem, but I think turf application is also a very serious problem. For those reasons, I urge us to pass the amendment.

However, I do plan to vote for the underlying bill in the unlikely event that the amendment is defeated, because I do think that the effort to conference this and move it

forward is not just well-intentioned but is something that I believe in the current atmosphere is going to produce results this year on an issue that is important to many of us on both sides of the aisle.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, we also have a two-bill approach.

We have an IPM bill for schools which will also deal with much of the problem in schools.

We also deal with the granular application. Granular application is dealt with through homeowners. And as of right now, a commercial applicator must flag when they put out a granular application.

Under this legislation as it proposed unamended, the homeowner would have to put a flag out when they apply a granular application. Granular application is not the risk spraying is. A granular application is only at risk if you walk on your neighbor's property where you do not belong without permission. And if a flag is posted to say

it's a hazard, you don't go there. That's what it means. It means the same when the commercial applicator puts it out as when the private homeowner puts it out.

We deal with it that way. There is no need for 48-hour notification for granular application. There simply is no need. It's a waste of time and an overuse. What you're saying then is they ought to spray, because what else. They might as well, if they've got to give them 48-hour notice, use the other weapon. Use the atomic bomb rather than the lesser one.

We are addressing the issues, we think, in a responsible manner. Again, I urge the defeat of the amendment.

ACTING PRESIDENT MEIER: Senator Schneiderman, one moment. The rules of the Senate provide that a member may speak twice on a question.

SENATOR SCHNEIDERMAN: Thank you very much. I have spoken twice.

ACTING PRESIDENT MEIER: Thank you, Senator Schneiderman.

Senator Coppola.

SENATOR COPPOLA: On the bill - on the amendment.

It's a good idea to include all of the State of New York. The fact of the matter is if Ronald Reagan had left all of the United States of America hanging with the drinking law in the 50 states -- we have a uniform drinking law in the United States, which was very progressive and very fortunate that he took the leadership to do that.

And I feel the same way about this environmental pesticide, because it's dangerous to our environment and to our society. And to have it voluntary out there for different counties, I don't think they'll participate.

So I support the amendment. Thank you.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. I rise just to make one point to Senator Marcellino with respect to the nonspraying application of pesticides.

How it comes to get on the ground

from my point of view is not the issue. The question is, is there any notice when your dog runs onto the lawn or that trespasser that - frankly, I've got three of them. And when they were between the ages of 3 and 12, they trespassed everywhere. They were called children. And they would go out and run around on people's lawns, run around on school district lawns, run around on lawns all over the place. I never knew what was on that lawn.

And I appreciate the fact that the spraying, because of the airborne possibilities of being -- extending beyond the boundaries, is a more dangerous threat. But I also think that granular applications can pose a threat to the populations that are most vulnerable -- children, pets, things that end up on other people's lawns that wouldn't necessarily be trespassers.

And I would just suggest that that's one of the reasons to vote for this amendment, because it's more expansive than what this bill proposes.

And I also agree with Senator

Schneiderman. I think if we make it local option, if we don't use the power we have to require this statewide, we're going to end up with a patchwork of 60 odd -- well, not 60, because the City of New York will be included as one. But we're going to end up with a patchwork of 45 different rules and regulations which will make it impossible for the economies of scale to come with statewide provisions or statewide suppliers of this service to actually utilize it.

And I have one other question on the main bill when we get through with the amendment, Mr. President, which I'll direct to Senator Marcellino later.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT MEIER: We're on the amendment, Senator.

SENATOR MARCELLINO: Aw.

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

SENATOR PATERSON: Party vote in the affirmative.

SENATOR BRUNO: Party vote in the negative.

ACTING PRESIDENT MEIER: The Secretary will call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 23. Nays, 35. Party vote.

ACTING PRESIDENT MEIER: The amendment is defeated.

Senator Marcellino.

SENATOR MARCELLINO: Mr. Chairman, read the last section.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall -

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, may I just ask Senator Marcellino one question on the main bill.

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

SENATOR MARCELLINO: Yes, I yield.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: How does this affect the application of pesticides for things like the West Nile virus and the application against mosquitos in certain instances? Will this affect that in any way? This is a lawn -- is this simply a residential lawn application program?

SENATOR MARCELLINO: This would not affect anything that had to do with aerial spraying in that respect, because that would be an emergency situation and a health-risk situation. So this bill would not negatively impact or require them to do anything like that, Mr. Dollinger -- Senator Dollinger.

The bill was not intended to deal with that, and there's always the emergency application situation. When you have a health risk, you have to do what you have to do.

SENATOR DOLLINGER: Just on the bill briefly, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I'm going to

vote against this bill. I know that there are many people who support it as the reasoned alternative or doing something on this measure.

But I have voted against this bill in the past because it really doesn't do anything for Monroe County, the community that I represent. It allows them to opt in but frankly allows them to create a whole series of rules and regulations that could be inconsistent with other parts of the state.

I think this is the wrong approach. I favor the amendment, the amended approach. I would go that way. I appreciate what Senator Marcellino is trying to do. I don't think this bill quite goes far enough. And until it does something for Monroe County rather than just allows them to opt in, my view is they may have the power to do all these things that Senator Marcellino wants to do. They may have that power today under their normal police powers. And I'm not so sure we're necessarily giving them anything all that much.

So from my point of view, the

better way to do it is make it mandatory, require the counties to do it. And when that bill comes out, when we've had discussions with the Assembly, I'll be the first in line to vote for it, Mr. President.

SENATOR MARCELLINO: Mr. Chairman.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Yeah, you know, I keep on saying it, but Senator Dollinger was wrong on the granular application approach on several reasons.

Yes, children are at risk. Children are our most at-risk group. We want to protect them at all costs because they're most vulnerable. And they should be protected at all costs. And two- and three-year-olds should not be allowed to go running around on anybody else's property or anywhere else unattended by an adult.

And I'm sure Senator Dollinger would not have allowed his children to go running around out in the neighborhood without an adult present. And I certainly didn't

allow mine, and I doubt if anyone here allowed theirs.

The flagging tells the parent, the responsible party, that there is a dangerous substance on that lawn, you are the responsible party, you must keep your child off the lawn. That is your responsibility. There is no way you can mandate responsibility on anyone.

Wrong on the other application business. This does not produce or does not allow individual counties to set up their own rules. They have to go by the rules in the bill. There will be no hodgepodge of laws. All counties opting into this plan must opt into the plan as stated in the law. No two counties can do totally different rules.

So if they opt in, they will opt in with the same set of rules, whether they are from Monroe County or from Nassau and Suffolk Counties. And I daresay Nassau and Suffolk County people and Monroe County people are very much the same. Neither one should be unnecessarily exposed to pesticides.

I urge the support of this bill.

ACTING PRESIDENT MEIER: Read the last section.

Oh, I'm sorry. Excuse me, Senator Oppenheimer. I'm sorry.

SENATOR OPPENHEIMER: I'm short, but I'm not that short.

ACTING PRESIDENT MEIER: No, you're not. You're noticeable.

Senator Oppenheimer.

SENATOR OPPENHEIMER: I have a question for Senator Marcellino.

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

SENATOR MARCELLINO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR OPPENHEIMER: And this is just -- I will ask Senator Marcellino just for an educated guess because he is really so knowledgeable in this area.

Do you feel that our counties in New York State will opt into this voluntary program?

SENATOR MARCELLINO: Senator, I believe that every county should opt into this

proposal, and I believe most every county will opt into this proposal over time, if not immediately upon its passage into becoming law. I believe they will.

I do also believe that they have a right, as a local municipality, to determine their own fate. And that local control and those county legislatures have certain rights as well, and that we owe them the courtesy and the consideration of taking their own action.

And I believe that they will do the right thing as they see it for their constituents and their residents. And I believe, as I said earlier, every county will eventually opt into this legislation.

SENATOR OPPENHEIMER: Thank you, Senator.

I'll just speak very briefly on the bill.

ACTING PRESIDENT MEIER: Senator Oppenheimer, on the bill.

SENATOR OPPENHEIMER: Lord knows, I hope what Senator Marcellino says is right. And I certainly would like all counties to opt in. But I'm fearful that all counties may not

opt in.

And I feel this is important enough to have the 48-hour prenotification, and there are various pieces of this bill which I definitely support.

I think we shouldn't get too tied into this, because -- into your bill, Senator Marcellino, because we do want something to come out this session, if possible. And if there is talk going on right now -- we have been discussing this bill for, I guess, six seven years. It seems to me to be a very long time that we've been talking about it.

And maybe in these last few days, with crunch coming, maybe we will be able to achieve some give-and-take and come out with a single bill. Because to my way of thinking, the other house has the preferable bill, because daycare centers are included and schools are.

And also because I think the requirements in the Senate bill, the specifications, the application specifications, are really very, very cumbersome. And I think the other house has a

bill that is easier to understand and easier to enforce.

So I'm going to be supporting this bill. I think it has very important considerations in it. It is my hope, as I have said in past years, that the two houses will get together to iron out these differences and that we can present both houses with a single bill, because many of us very much support the idea of pesticide notification and want to see it happen now.

I'll be supporting the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman.

SENATOR SCHNEIDERMAN: Thanks, Mr. President. On the bill.

ACTING PRESIDENT MEIER: Senator Schneiderman, on the bill.

SENATOR SCHNEIDERMAN: I join with Senator Oppenheimer in her sentiments. I'm going to vote yes on this bill. I think it is a step forward.

I do, however, have concerns, and I don't really think that in the area of environmental protection, county opt-in is

really the right way to go. I mean, I think with our clean air laws, our clean water laws, as a federal matter and as a state matter, consistency is really critical.

And in a lot of areas where you have asthma epidemics, essentially, in some parts of the state -- and pesticide is one of the things that has been identified as one of the sources -- consistent reduction of exposure to pesticide for all the children of the state should be our goal.

I'm supporting the bill. I hope we'll move forward to conferences with the Assembly. And I hope what we come out with is something that has statewide application.

Thank you.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Just briefly on the bill, Mr. President.

I just disagree with my colleague, Senator Marcellino, on one thing. I agree that the bill says that it has to have all these provisions without exception, which is the language in this bill. But there's

nothing in this bill that says that they couldn't add other criteria onto the bill. They could put additional requirements beyond the basic minimum that we require by statute.

So under those circumstances, the hodgepodge effect that Senator Schneiderman referred to could in fact happen. That's what this bill could do. We could end up with a balkanized system of notification that would be counterproductive.

I like the concept, but I've voted against this bill in the past because I think it's the wrong approach.

Let's use that power that we have to require all the counties to do something statewide. So that when the people from Rochester go on vacation in Ontario County, where Senator Nozzolio is from, or they go into Niagara County, where Senator Maziarz is from, they know that the same rules apply. When they see the little markers on the lawns in our public schools or in our playgrounds, they'll know that pesticides have been adapted and they'll know that there's a consistent statewide rule for application.

That's the right way to go. Until we get there, I'm going to vote no, Mr. President.

ACTING PRESIDENT MEIER: Senator Balboni.

SENATOR BALBONI: Mr. President, thank you for the opportunity to speak on the bill briefly.

This issue is an issue that is very, very difficult for all of us, only because, as usual with many issues in this state, there's a huge geographical divergence of opinion.

The farming community sees pesticides as a necessary way to conduct business. And in fact, many in the suburbs see pesticides as a way to keep their lawns and the way they see their houses as something green and wonderful. But at the same time, there are many people who would like to see a bill that simply bans pesticides.

The difficulty associated with this bill for years has been that this is a tightrope to walk.

I want to congratulate Senator Carl

Marcellino. This has been a very difficult issue for him, only because he's trying to do the right thing with an issue that involves notification. This is not about banning pesticides. This is not about clean air. This is not about clean water. Because this doesn't stop the use of pesticides.

What this does is it gets into the daily fabric of life and says, in a commonsense way, talk to your neighbor, let your neighbor know what you're doing to your property, and then hopefully the neighbor will do the right thing with their family.

We cannot legislate common sense, but we can legislate notification and information. And I think the part of this bill that just is not focused on, but it's a very important element, is what happens at the place where pesticides are sold.

I know many of my neighbors who go to the lawn-care stores, they have no idea what they're buying except it says it kills grubs. They don't understand what the chemical composition is, and they have no appreciation as to whether or not this is in

fact something that can affect human life.

But what this does is it says at the point of purchase to the homeowner -- and if you take a look at the statistics, my colleagues, you'll see that in terms of actually putting pesticides into the ground, homeowners, private applicators, do a lot more than commercial applicators.

And so it says to the private applicator, Stop. Think about what you're going to put on your lawn. Think about what you're going to put into the environment. And that educational component is probably one of the best aspects of this bill.

What frustrates me are the people who perhaps stand outside of this business and say, If you don't do the bill the way we want to do it, then you're not in favor of pesticide notification and you're not doing the right thing.

That is bunk. This is the first step in a dialogue that we need to have on a very important issue. It is probably one of the most commonsense approaches you could see out there.

And, Carl, don't give up the fight. I think this is a good piece of legislation. And I would urge support, Mr. President.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the first day of March.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56. Nays, 2. Senators Duane and Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 47, by Senator Alesi, Senate Print 4690 -

SENATOR FUSCHILLO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 203, by Senator Libous, Senate Print 2102A, an

act to amend the Mental Hygiene Law and the Executive Law -

SENATOR FUSCHILLO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 463, by Senator LaValle, Senate Print 5377, an act to amend the Education Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR HEVESI: Explanation.

SENATOR STACHOWSKI: Explanation.

ACTING PRESIDENT MEIER: Senator LaValle, an explanation has been requested of Calendar 463 by Senator Hevesi.

SENATOR LAVALLE: Put a sponsor star on it, please.

ACTING PRESIDENT MEIER: Place a sponsor star on Calendar 463.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 485, by Senator Libous, Senate Print 4913, an act to amend the Mental Hygiene Law, in

relation to directing.

SENATOR FUSCHILLO: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 868, by Senator Volker, Senate Print 2273, an act to amend the Executive Law, in relation to civil actions.

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.)

SENATOR PATERSON: Explanation.

SENATOR FUSCHILLO: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 966, by Senator Lack, Senate Print 3819, an

act to amend the Judiciary Law and the Family Court Act, in relation to compensation.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect in 90 days.

SENATOR DOLLINGER: Mr. President, just to explain my vote. I'll let the roll call go forward.

ACTING PRESIDENT MEIER: Let me start the roll call and then we'll recognize you.

Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Mr. President, just very briefly.

I'm going to vote in favor of this bill. It's the right thing to do to allow private payments for the law guardians.

I'd simply like to drive home the message that while we're increasing the fees for law guardians, we continue to leave, under 18B, the people who are really doing the

yeoman's work in Family Court terribly undercompensated.

This allows us to use the private system to jack up the rates for law guardians. That's a good idea. Why don't we use the public money to jack up the rates for those who are providing the counsel to the indigent who need representation in our Family Court.

It's really a travesty, Mr. President. And I know we've discussed it before, but I take this opportunity to remind everybody, while raising some rates, we ought to raise them all.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1109, by Senator Rath, Senate Print 722C, an act to amend the General Business Law, in relation to the regulation.

SENATOR DUANE: Explanation,

please.

ACTING PRESIDENT MEIER: Senator Rath, an explanation has been requested of Calendar 1109 by Senator Duane.

SENATOR RATH: Thank you, Mr. President.

The bill in front of you, commonly known as the spam bill, for reasons I will explain if anyone wants me to go into that, is a bill that would regulate the transmission of unsolicited commercial e-mail. That's what spam basically is, unsolicited commercial e-mail.

It's important in helping to protect the Internet, which is of course one of the driving forces in the revival of the economy today. And the unwanted spamming has a lot of overtones, and we have some penalties put in that will not hurt the people who are advertising directly on the Internet.

It won't prohibit them from going forward doing what they're doing now. But what it will do will be to protect your e-mail box from all that stuff that you don't want that shows up in it. In fact, some of what's

happening because of spamming, people are attempting to avoid additional activities in their e-mail accounts so that they don't get spammed by some of the porno sites and some of the other sites that can move towards putting things into their e-mail that they don't want.

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: I'm wondering what the sponsor feels the impact of this bill will be on interstate commerce and whether she believes this would interfere with interstate commerce.

SENATOR RATH: Only for people who are acting at what we consider to be illegal, people who are using other people's domain names.

And it's a beginning of some

restrictions and getting our arms around an area that right now has no restrictions. And it's acting as a deterrent for some people wanting to move forward with their activity on the Internet because of this unsolicited commercial -- it's like junk mail in your mailbox. If you don't want it, you don't want it.

And this will also protect people from incorrectly identifying themselves when they spam into your e-mail, which they can do now with no penalty.

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

SENATOR RATH: Surely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DUANE: This raises a very good point. Isn't this exactly like mail, ordinary junk mail, in that the same kinds of things could be said about junk mail that goes through, that people use names that are suspiciously close to well-known names to send out mail, et cetera?

SENATOR RATH: That's very true. And people that are falsifying or forging e-mail, this is one of the things that we're going to be trying to protect against.

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: Yes.

SENATOR DUANE: Then why don't we have the same legislation for junk mail?

SENATOR RATH: Pardon me? I'm sorry, I was distracted.

SENATOR DUANE: If I may repeat, Mr. President.

SENATOR RATH: I'm sorry.

SENATOR DUANE: Then why isn't there the same legislation pending before us for junk mail?

SENATOR RATH: The junk mail piece I think was identified and reviewed last year. Now, whether we did it formally or informally, I can't recall. But you can get rid of all that junk mail, of course, in your

mailbox. That's fairly easy to do. And I could talk with you privately about how to do that.

That's -- this is addressing, you know, Internet.

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 actually know how to stop getting junk mail. But my point is you have channels by which you can do that.

I also believe that you can do this by using various pieces of technology to block this type of e-mail, from receiving this type of e-mail.

And again, if this is akin to junk mail, that's actually more of a federal Interstate Commerce Commission issue than it is a New York State issue; isn't that correct?

SENATOR RATH: I'm sorry, you had

finished your question. Okay.

The fed hasn't done anything yet. And so this is not unlike a number of other circumstances where the states -- as I guess we're calling it, the laboratories of democracy -- have to move forward with something that the fed has not taken under their wing yet.

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

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

The sponsor yields.

SENATOR DUANE: But if this kind of e-mail was sent from another state into New York State, would we have jurisdiction over that?

SENATOR RATH: I'm advised that that may be a point that might have to be taken up in the courts.

But first of all, these people are into illegal activity as they're moving forward, and they've injected themselves into New York State activity and New York State

commerce. So when they're doing such illegally, yeah, we may get into some kind of an interstate commerce issue.

But in the meantime, if we were to stand aside and not do anything, with the possibility -- I mean not only on this front, but on a number of fronts, because of the possibility of something coming up with interstate commerce, I think many pieces that we have done over the years would not have happened.

SENATOR DUANE: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Duane, on the bill.

SENATOR DUANE: I think that we're stepping into areas where as a state we ought not to be.

I think the federal government takes a pretty tough stance on states with - interfering with interstate commerce. I'm not aware -- and I may be wrong, but I'm not aware of other states which have done this type of legislation, because I think it calls into question a whole host of issues ranging from

how it is that someone would be able to e-mail a mass advertisement out, no matter where it would be going, as well as mistakes made about names that are used and that sort of thing.

I do agree that there is some malicious misuse of names. There certainly is in the kind of mail that I get -- you know, telephone directories which make believe they're the Yellow Pages, but they're not, and they just seek to get money. I think that kind of thing does happen with e-mail, as it does with the U.S. mail.

But again, I think that these are issues having to do with interstate commerce and the federal government and that we're taking a step which we really should not be taking on this particular matter, well-intentioned though it is.

I also think that in the meantime there is technology available to block spam on people's business and personal computers. And until this is really dealt with on a federal level, I think we should not be inserting ourselves into it.

I'll be voting no on this, Mr.

President.

SENATOR RATH: Point of refutation, Mr. President.

ACTING PRESIDENT MEIER: Senator Rath.

SENATOR RATH: The states of Washington and California have civil statutes that they've passed. And of course this is a civil remedy that we're looking at here today.

And the states of Virginia and North Carolina have criminal, penal-law statutes that they've passed.

So we're not alone in this. I mean, it's being looked at in a number of places.

Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT MEIER: Senator

Duane.

SENATOR DUANE: Thank you, Mr. President.

As I indicated, I'm going to be voting no. But I do believe that even though this legislation may have passed in other states, both in a civil and criminal code, that this is untested territory in the courts. And I'm skeptical that this type of legislation will hold up. Because, as I say, it is an interstate commerce issue.

Thank you, Mr. President.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 57. Nays, 1. Senator Duane recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, will you please call up Calendar Number 868.

ACTING PRESIDENT MEIER: The

Secretary will read Calendar Number 868.

THE SECRETARY: Calendar Number 868, by Senator Volker, Senate Print 2273, an act to amend the Executive Law, in relation to civil actions.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Volker, an explanation has been requested of Calendar 868 by Senator Paterson.

SENATOR VOLKER: Mr. President, the Court of Claims Act says that the jurisdiction to hear all claims against state officers or employees for torts committed in the course of their employment shall be in the Court of Claims.

What's happened is that over the years, despite the law, cases have been brought in Supreme Court and very often with duplicative filings against members of the state police in both the Court of Claims and the Supreme Court.

One of the reasons is that some people feel as if they can get a more favorable decision in the Supreme Court. But more than that, very often they don't comply

with the filing rules in the Court of Claims, and therefore use the Supreme Court rules to make filings. And what some lawyers do is to file both in the Court of Claims and in Supreme Court, so that you have duplicate filings.

And what this bill does is to avoid the duplicative filings in -

ACTING PRESIDENT MEIER: Senator Volker, can I interrupt you for a moment.

SENATOR VOLKER: Sure.

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

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

SENATOR VOLKER: All right, that's nice. Now what do I do?

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: Yeah, that's me.

At any rate, that basically is it, just to avoid duplicative filings.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, let me do this very quickly, because Senator Volker has to run.

SENATOR VOLKER: Thank you.

SENATOR PATERSON: If he would just yield for this quick question.

SENATOR VOLKER: Sure.

SENATOR PATERSON: Mr. President, the question I have for Senator Volker is if a person has a federal right of action, isn't this somewhat precluded if we have it in the Court of Claims where there's no jury trial?

SENATOR VOLKER: No. If you have a federal action, you can always bring a federal claim. There's nothing -- as I understand it, there's nothing we can do under the state rules to keep people from bringing a federal action.

In fact, I think -- I believe, from what I understand, you could bring an action -- actually, right now you could

probably bring an action in Supreme Court, Court of Claims, and in federal court at the same time, technically. Although the federal court would probably hold off any decision or any case until the state court cases were terminated or were finished.

SENATOR PATERSON: Thanks.

SENATOR VOLKER: 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.)

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, I think the Trial Lawyers Association appropriately points out that regardless of the federal action, we're still going to be really inhibiting the jury trials guaranteed to all of us constitutionally if we ship this to the Court of Claims where we don't have a jury trial.

So I would urge a no vote on this bill.

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

The Secretary will announce the results -- I'm sorry, those voting in the negative keep your hands up for a moment.

THE SECRETARY: Those recorded in the negative on Calendar Number 868 are Senators Breslin, Connor, Coppola, DeFrancisco, Gentile, Hevesi, Onorato, M. Smith, and Stavisky. Ayes, 47. Nays, 9.

ACTING PRESIDENT MEIER: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: I would request unanimous consent to vote in the negative on Calendar 623, please.

ACTING PRESIDENT MEIER: Without objection, Senator DeFrancisco will be recorded in the negative on Calendar 623.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 1111, by Senator Nozzolio, Senate Print 1586B,

an act to amend the Executive Law and the General Business Law.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 8. This act shall take effect January 1, 2001.

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 1135, by Senator Hannon, Senate Print 6986, an act to amend the Public Health Law, in relation to licensure and testing of applicants.

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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1226, by Senator LaValle, Senate Print 4910, an act to amend the Criminal Procedure Law, in relation to designating.

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 1265, by Senator Hannon, Senate Print 7250, an act to amend the Tax Law, in relation to extending.

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: I'm sorry. Senator Paterson.

SENATOR PATERSON: May I have an explanation on that bill.

ACTING PRESIDENT MEIER: Senator Hannon, an explanation has been requested of Calendar 1265 by Senator Paterson.

SENATOR HANNON: This bill, which is being acted upon at the home rule request of the county legislature in Nassau County, would be the second continuation of a fee for tourism promotion on Long Island.

ACTING PRESIDENT MEIER: Read the last section.

Senator Paterson, why do you rise?

SENATOR PATERSON: I wanted him to take my picture, Mr. President.

(Laughter.)

ACTING PRESIDENT MEIER: Oh. And I'm sure it will be a very nice one, too.

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 1268, by Senator Goodman, Senate Print 7515, an act to amend the Penal Law, in relation to concurrent and consecutive terms of imprisonment.

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 1271, by Senator Rath, Senate Print 7680A, an act to amend the Public Authorities Law and Chapter 579 of the Laws of 1999.

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, 58.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1275, by Senator LaValle, Senate Print 7844, an act to amend the Executive Law, in relation to continuing.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR HEVESI: Explanation, please.

ACTING PRESIDENT MEIER: Senator LaValle, an explanation has been requested by Senator Hevesi of Calendar 1275.

SENATOR LAVALLE: Senator Hevesi, a number of years ago we passed and put into law legislation that would give to the -- for the real estate brokers to allow the licensing

agent to approve courses on the Internet or distance learning.

This legislation is specifically for appraisers and would give the Department of State, which is the licensing agency, the ability to approve continuing education courses for licensed appraisers, that they - on Internet courses or distance learning courses.

That's the bill.

SENATOR HEVESI: Thank you.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 58.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Duane.

SENATOR DUANE: Thank you, Mr. President. With unanimous consent, I'd like to be recorded in the negative on Calendar

Number 868 and Calendar Number 1278, please. I was out of the chamber.

ACTING PRESIDENT MEIER: Without objection, Senator Duane will be recorded in the negative with regard to Calendars 868 and 1278.

Senator Fuschillo, that concludes the controversial calendar.

Senator Dollinger.

SENATOR DOLLINGER: Mr. President, with the concurrence of the Majority, I'd just like to ask for unanimous consent to be recorded in the negative on Calendar 868 and Calendar Number 1265, the promotional fee or the tax masquerading as a promotional fee.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Without objection, Senator Dollinger will be recorded in the negative with regard to Calendars 868 and 1265.

Senator Schneiderman.

SENATOR SCHNEIDERMAN: Mr. President, I would also request unanimous consent to be recorded in the negative on

Calendar 868.

ACTING PRESIDENT MEIER: Without objection, Senator Schneiderman will be recorded in the negative on Calendar 868.

SENATOR SCHNEIDERMAN: Thank you.

ACTING PRESIDENT MEIER: Senator Fuschillo.

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

ACTING PRESIDENT MEIER: Reports of standing committees.

The Secretary will read.

THE SECRETARY: Senator Bruno, from the Committee on Rules, reports the following bills:

Senate Print 1170A, by Senator Meier, an act to amend the Education Law and the Criminal Procedure Law;

1739, by Senator Breslin, an act to amend the General Municipal Law;

2010, by Senator Padavan, an act to amend the Penal Law;

3195B, by Senator LaValle, an act

to amend the Education Law;

3393C, by Senator Lack, an act to amend the Estates, Powers and Trusts Law;

4362B, by Senator Saland, an act to amend the Surrogate's Court Procedure Act;

4594, by Senator Marchi, an act to amend the Vehicle and Traffic Law;

4772A, by Senator Seward, an act in relation to granting;

4999B, by Senator Balboni, an act to amend the Insurance Law and the Public Health Law;

6327, by Senator Wright, an act to amend the Correction Law and the Executive Law;

6383A, by Senator Alesi, an act to amend the Penal Law;

6398, by Senator Skelos, an act to amend the Criminal Procedure Law;

6466A, by Senator McGee, an act to amend the State Finance Law and the Vehicle and Traffic Law;

6480A, by Senator Seward, an act to amend the Education Law;

6485, by Senator Maltese, an act to

amend the Education Law;

6598, by Senator Skelos, an act to amend the Retirement and Social Security Law;

6733A, by Senator Seward, an act to amend the Insurance Law;

6742, by Senator Johnson, an act to amend the Lien Law;

6827A, by Senator Skelos, an act to amend the Education Law;

7010, by Senator Trunzo, an act to amend the Highway Law;

7312, by Senator Maziarz, an act to amend the Executive Law;

7388, by Senator Hannon, an act to amend the Not-for-Profit Corporation Law;

7562A, by Senator Kuhl, an act to amend the Alcoholic Beverage Control Law;

7647A, by Senator Stafford, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law;

7873, by Senator Oppenheimer, an act in relation to legalizing;

7890, by Senator Padavan, an act to authorize the Dormitory Authority;

7904, by Senator Larkin, an act to

amend the Penal Law;

7916, by Senator Volker, an act to amend the Executive Law;

7922, by Senator Lack, an act to amend the Correction Law;

7925, by Senator Morahan, an act to amend the Real Property Law;

7928, by Senator Rath, an act to amend Chapter 812 of the Laws of 1942;

7932, by Senator Spano, an act to amend Chapter 831 of the Laws of 1981;

7933, by Senator Spano, an act to amend the Workers' Compensation Law;

7934, by Senator Spano, an act to amend Chapter 491 of the Laws of 1993;

7940, by Senator Balboni, an act in relation to authorizing;

7944, by Senator Velella, an act to amend the Education Law;

1638B, by Senator Maltese, an act to amend the Penal Law;

And 4691A, by Senator Goodman, an act to amend the Penal Law and the Executive Law.

All bills ordered direct to third

reading.

ACTING PRESIDENT MEIER: Senator Fuschillo.

SENATOR FUSCHILLO: I move to accept the report of the Rules Committee.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The report of the Rules Committee is accepted.

Senator Paterson.

SENATOR PATERSON: Mr. President, with unanimous consent I'd like to be recorded in the negative in the record on Calendar Number 868.

ACTING PRESIDENT MEIER: Without objection, Senator Paterson will be recorded in the negative with regard to Calendar 868.

Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President. Without objection, I would like

unanimous consent to be recorded in the negative on Calendars 354, 506, 863, and 868.

ACTING PRESIDENT MEIER: Without objection, Senator Montgomery will be recorded in the negative with regard to Calendar Numbers 354, 506, 863, and 868.

Senator Sampson.

SENATOR SAMPSON: Mr. President, I'd like unanimous consent to be recorded in the negative on 868.

ACTING PRESIDENT MEIER: Without objection, Senator Sampson will be recorded in the negative on Calendar 868.

Senator Lachman.

SENATOR LACHMAN: Mr. President, I also seek unanimous consent to be recorded in the negative on 868.

ACTING PRESIDENT MEIER: Without objection, Senator Lachman will be recorded in the negative with regard to Calendar 868.

Senator Seabrook.

SENATOR SEABROOK: Yes, Mr. President. With unanimous consent, I'd like to be recorded in the negative on 354 and Calendar 868.

ACTING PRESIDENT MEIER: Without objection, Senator Seabrook will be recorded in the negative on Calendar 354 and 868.

Senator Ada Smith.

SENATOR ADA SMITH: Thank you, Mr. President. I request unanimous consent to be recorded in the negative on Calendar Number 868.

ACTING PRESIDENT MEIER: Without objection, Senator Ada Smith will be recorded in the negative on calendar 868.

SENATOR VOLKER: Mr. President.

ACTING PRESIDENT MEIER: Senator Volker.

SENATOR VOLKER: I want unanimous consent to be recorded in the affirmative on 868.

(Laughter.)

ACTING PRESIDENT MEIER: Without objection.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, can we please return to motions and resolutions.

ACTING PRESIDENT MEIER: Motions

and resolutions.

Senator Fuschillo.

SENATOR FUSCHILLO: On behalf of Senator Marchi, on page number 35 I offer the following amendments to Calendar Number 992, Senate Print Number 6981, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, I offer the following amendments to Calendar Number 1296, Senate Print Number 6742, and ask that said bill retain its place on Third Reading Calendar.

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

SENATOR FUSCHILLO: Mr. President.

ACTING PRESIDENT MEIER: Senator

Fuschillo.

SENATOR FUSCHILLO: Will you please recognize the gentleman to my left, Senator Paterson.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, there will be a conference of the Minority at 9:30 -

(Commotion in chamber.)

SENATOR PATERSON: There will be a very interesting conference of the Minority tomorrow morning, June the 7th, 9:30 a.m., in the Minority Leader's Conference Room.

ACTING PRESIDENT MEIER: There will be a conference of the Minority, and wailing and gnashing of teeth, tomorrow morning at 9:30 in the Minority Conference Room.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, there will be a meeting of the Majority conference in the Majority Conference Room tomorrow at 9:30 a.m. promptly.

ACTING PRESIDENT MEIER: There

will be a meeting of the Majority conference tomorrow morning at 9:30 a.m. in the Majority Conference Room.

Senator Fuschillo.

SENATOR FUSCHILLO: Mr. President, there being no further business to come before the Senate, I move we adjourn until Wednesday, June 7th, at 10:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Wednesday, June 7th, at 10:00 a.m.

(Whereupon, at 4:53 p.m., the Senate adjourned.)