NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

May 29, 2001

3:07 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: 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: In the absence of clergy, may we each bow our heads in a moment of silence.

(Whereupon, the assemblage respected a moment of silence.)

THE PRESIDENT: Senator Bruno.

SENATOR BRUNO: Madam President, my colleagues, before we go into our regular session in regular order, I would like to announce that for the first time in the history of New York State, this legislative proceeding will be live, on the Internet, gavel to gavel.

We are the first house in the Legislature. This chamber was wired within the last couple of years. When I became leader, one of the first things that we talked about was coverage, gavel to gavel, on cable or on the Internet. We join 25 other states

that have gavel-to-gavel coverage.

And Senator Paterson was a few minutes late because he indicated that he was in makeup. And that is understandable.

But I want to just share that our proceedings will be in 71 percent of the households in New York State. 98 percent of all the libraries have Internet access, most businesses in New York State, all of the university systems, the schools.

So we are opening up the legislative proceedings here in the Senate to the public, again for the first time in the history of this state.

So I want to applaud my colleagues here in the Senate, those that have served over these years to get us to this point. We will be on cable, we're on cable Sunday, along with the Governor and the Speaker. And that on cable is Sunday mornings, and it is canned as relates to what goes on here during the week.

We are not on cable now because a C-Span -- and this is important to understand -- application, by the Rockefeller

Institute's appraisal, is a $10 million to $30 million project, with a cost of about $3 million a year. Cable itself cannot presently handle gavel to gavel. They do not have facilities. As they get broader bandwidth and they are able to accommodate us, we will be on cable.

So I share all of that with you. The cost, for us to be up, about $450,000, and about $150,000 a year.

So thank you, Madam President, and I thank my colleagues for your cooperation in where we are here at this historic moment in all of our lives. Thank you.

Can we have the reading of the Journal.

THE PRESIDENT: Reading of the Journal.

THE SECRETARY: In Senate, Monday, May 27, the Senate met pursuant to adjournment. The Journal of Saturday, May 26, 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 Kuhl.

SENATOR KUHL: Yes, Madam President. On page 12 I offer the following amendments to Calendar Number 221, Senate Print 2905A, and ask that said bill retain its place on the Third Reading Calendar.

THE PRESIDENT: The amendment is received, Senator, and the bill will retain its place on the Third Reading Calendar.

SENATOR KUHL: Thank you, Madam President.

THE PRESIDENT: You're welcome.

Senator Lack.

SENATOR LACK: Thank you, Madam President. On page 49, I offer the following amendments to Calendar Number 784, Senate

Print 4784, and ask that said bill retain its place on Third Reading Calendar.

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

Senator LaValle.

SENATOR LAVALLE: Madam President, on page 43 I offer the following amendments to Calendar Number 715, Senate Print Number 4127, and ask that said bill retain its place on the Third Reading Calendar.

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

Senator Nozzolio.

SENATOR NOZZOLIO: Madam President, on behalf of Senator Morahan, please place a sponsor's star on Calendar Number 369.

THE PRESIDENT: So ordered, Senator.

SENATOR NOZZOLIO: Madam President, on page number 36, the following amendments are offered to Calendar Number 638,

Print Number 357A, and I ask that said bill, on behalf of Senator Morahan, be placed on Third Reading Calendar.

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

SENATOR NOZZOLIO: Madam President, on page number 39, the following amendments are offered to Calendar Number 672, Senate Print Number 1377A, and Senator Morahan asks that said bill retain its place on Third Reading Calendar.

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

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Madam President. On behalf of Senator Maltese, on page number 41, I offer the following amendments to Calendar Number 699, Senate Print Number 4913, and ask that said bill retain its place on Third Reading Calendar.

THE PRESIDENT: The amendments are received, and the bill will retain its

place on the Third Reading Calendar.

Senator Trunzo.

SENATOR TRUNZO: Madam President, on the starred calendar would you please remove the star from Calendar Number 288.

THE PRESIDENT: So ordered, Senator.

Senator Skelos.

SENATOR SKELOS: Madam President, are there any substitutions at the desk?

THE PRESIDENT: Yes, there are, Senator.

SENATOR SKELOS: I ask that they be made at this time.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: On page 21, Senator Trunzo moves to discharge, from the Committee on Rules, Assembly Bill Number 6433 and substitute it for the identical Senate Bill Number 3228, Third Reading Calendar 424.

And on page 27, Senator Goodman moves to discharge, from the Committee on Rules, Assembly Bill Number 7788 and substitute it for the identical Senate Bill

Number 4778, Third Reading Calendar 531.

THE PRESIDENT: Substitutions ordered.

Senator Skelos.

SENATOR SKELOS: Madam President, there's a privileged resolution at the desk by Senator Leibell. I ask that the title be read and move for its immediate adoption.

THE PRESIDENT: The Secretary will read.

THE SECRETARY: By Senator Leibell, Legislative Resolution Number 2119, honoring Aldo Belardo upon the occasion of his designation as the recipient of the da Vinci Award from the Circolo da Vinci on May 30, 2001.

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

(Response of "Aye.")

THE PRESIDENT: Opposed, nay.

(No response.)

THE PRESIDENT: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: Madam President, would you please recognize Senator Dollinger.

THE PRESIDENT: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Madam President.

I hereby give written notice, pursuant to Senate Rule XI, that I will move to amend the Rules and add a new rule, XV, establishing ethical standards for members, officers, and employees of the New York State Senate.

I would ask that that be recorded in the Journal, Madam President.

THE PRESIDENT: The notice of motion has been received, Senator Dollinger, and it will be recorded in the Journal.

SENATOR DOLLINGER: Thank you.

THE PRESIDENT: Senator Skelos.

SENATOR SKELOS: Madam President, if we could have the noncontroversial reading of the calendar.

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

THE SECRETARY: Calendar Number 108, by Member of the Assembly Lentol, Assembly Print Number 808A, an act to amend the Penal Law, in relation to arson.

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, 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 249, by the Assembly Committee on Rules, Assembly Print Number 8357, an act to amend the Surrogate's Court Procedure Act, in relation to giving notice.

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, 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 446, by Senator LaValle, Senate Print -

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

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

THE SECRETARY: Calendar Number 480, by Senator McGee, Senate Print 3964, an act in relation to legalizing, validating, ratifying, and confirming.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 505, by Senator Stafford, Senate Print 2923, an act to amend the General Municipal Law.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 553, by Senator Wright, Senate Print 1327A, an act to amend the Tax Law.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 578, by Senator Bonacic, Senate Print 5132, an act to amend the Private Housing Finance Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 592, by Senator Farley, Senate Print 3086, an act to authorize the City of Gloversville.

ACTING PRESIDENT MEIER: There's

a home rule message at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 596, by Senator Rath, Senate Print 3423A, an act to amend the County Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 44.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 631, by Senator Kuhl, Senate Print 3230, an

act to amend the Public Health Law, in relation to the Southern Tier.

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, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 634, by Senator Hannon, Senate Print 4394, an act to amend Chapter 521 of the Laws of 1994.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 654, by Senator Saland, Senate Print 4235, an act to amend the Penal Law, in relation to custodial interference.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 4. This

act shall take effect on the first day of November.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 692, by Senator Meier, Senate Print 4863B, an act to amend the Social Services Law, in relation to extending.

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, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 767, by Senator Balboni, Senate Print -

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 780, by Senator Volker, Senate Print 4954, an act to authorize the participation of the County of Erie.

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

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 793, by Member of the Assembly Gottfried, Assembly Print Number 7494A, an act to amend Chapter 725 of the Laws of 1989.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 803, by Senator DeFrancisco, Senate Print 2567, an act in relation to authorizing the County of Onondaga.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 806, by Senator Seward, Senate Print 3517, 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.)

SENATOR PATERSON: Lay that aside, please, Mr. President. My apologies.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 808, by Senator Larkin, Senate Print 3831, an act to amend the Racing, Pari-Mutuel Wagering and Breeding Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 813, by Senator Balboni, Senate Print 4208A, an act to amend the Environmental Conservation Law, in relation to matching grants.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 814, by Senator Marcellino, Senate Print 4729, an act to amend the Environmental Conservation Law, in relation to local land use.

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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 822, by Senator Maziarz, Senate Print 4057, an act to amend the Not-for-Profit Corporation Law, in relation to allowing.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 862, by Senator Johnson, Senate Print 5066A, an act to amend the Vehicle and Traffic Law, in relation to reflective markings.

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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

875, by Senator Wright, Senate Print 4250, an act to amend the Public Service Law and the State Administrative Procedure Act, in relation to endorsement.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 916, by Senator Maziarz, Senate Print 4964, an act to amend Chapter 693 of the Laws of 1996.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 948, by Senator Farley, Senate Print 2841, 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 on the first day of April.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 960 -

ACTING PRESIDENT MEIER: Senator Farley.

SENATOR FARLEY: I just want to explain my vote on this bill of mine that just passed, 948.

It's a rather unique piece of

legislation -- 59 sponsors of this bill. Seldom does anything have that kind of support in any house, and I'm very proud of it. It's one that allows senior citizens 60 years of age to take courses for credit without tuition in New York State.

And I applaud my colleagues for supporting the bill. And this year we're going to get it out of the Assembly and pass it.

Thank you.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will continue to read.

THE SECRETARY: Calendar Number 960, by Senator Sampson, Senate Print 1720, an act authorizing the City of New York.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 49. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 963, by Senator Saland, Senate Print 3204 -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 965, by Senator Skelos, Senate Print 3356A, an act to amend the Bay Park Library Services Act.

SENATOR PATERSON: Lay that aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 966, by Senator Stafford, Senate Print 4236, an act to -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the

bill aside.

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

SENATOR SKELOS: Thank you, Mr. President. If we could go to the controversial calendar at this time.

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

THE SECRETARY: Calendar Number 480, by Senator McGee, Senate Print 3964, an act in relation to legalizing, validating, ratifying, and confirming certain acts and proceedings.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator McGee, an explanation has been requested of Calendar 480 by Senator Paterson.

SENATOR McGEE: Thank you, Mr. President.

This bill legalizes, validates, ratifies, and confirms certain actions taken by the Hinsdale Central School District with respect to certain transportation contracts for the 1999-2000 school year.

Due to administrative error, the Hinsdale Central School District missed the deadline for filing certain transportation contracts. These contracts were for the services of children with special needs, which the district bus fleet is not equipped to provide.

This legislation will allow Hinsdale to obtain $17,673 in transportation aid, the full amount to which it would have been entitled if the contract had been filed in a timely manner.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator McGee would yield for a question.

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

SENATOR McGEE: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator, was the lack of seasonable response, the fact that the filing of the contracts was not timely,

was this ministerial or was there some other reason for the delay?

SENATOR McGEE: I believe that it was an administrative issue, because they had a change of clerks and business managers.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, I have one last question for Senator McGee.

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

SENATOR McGEE: Absolutely.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Mr. President, my question just relates to no real problem with correcting this issue, but any information that the Senator can give our colleagues as to how this type of situation might be avoided in the future.

SENATOR McGEE: Well, I would - oh, if I may, I would assume that any time that there is a clerk or a business manager that leaves a school, there should be a neat and orderly transition. This was not the case

in this particular issue.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard?

Hearing none, debate is closed.

There is a local fiscal impact note at the desk.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 505, by Senator Stafford, Senate Print 2923, an act to amend the General Municipal Law, in relation to taking of billboards.

SENATOR SKELOS: Lay it aside temporarily.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 553, by Senator Wright, Senate Print 1327A, an

act to amend the Tax Law, in relation to disclosure.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Wright, an explanation has been requested of Calendar 553 by Senator Paterson.

SENATOR WRIGHT: Thank you, Mr. President.

The bill before us today will amend the state tax laws and require the disclosure of any overpayment of taxes by a taxpayer.

As you may recall, in 1992 we passed legislation referred to as the Taxpayer's Bill of Rights. We see this as a very logical extension of that same practice, ensuring and codifying fair treatment for all taxpayers.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Wright would be kind enough to yield for a question.

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

SENATOR WRIGHT: I'll be glad to

yield for a question, Mr. President.

ACTING PRESIDENT MEIER: The Senator yields.

SENATOR PATERSON: Thank you.

Mr. President, I voted for this bill last year. I don't have a problem voting for it again. I'm just curious -

SENATOR WRIGHT: I thank you, Senator.

SENATOR PATERSON: I'm just curious, because the bill was vetoed by the Governor. So I was wondering if Senator Wright would explain to all of us what the Governor's concerns were and perhaps how they may be alleviated, either through discussion or by any changes that have been made to the legislation.

SENATOR WRIGHT: I'll be glad to, Mr. President.

The Governor has no objection whatsoever to disclosing to the taxpayer when there has been an overpayment made. In fact, he has directed that that be the policy of the Department of Taxation and Finance.

However, the language we had in

last year's bill he felt could lead to an erroneous interpretation by the court that there may be an outstanding state liability over and beyond the statute of limitations established for the period of recovery and therefore could expose the state, theoretically, to a potential loss of $38 million in revenue.

Consequently, he felt that a technical amendment, which we have incorporated in this year's bill, could address that. So we have incorporated that in this year's legislation.

We appreciate the support over each of the last two years -- three years for this bill. And the companion version has been introduced in the Assembly and hopefully will have a like result.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Hearing none, debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 634, by Senator Hannon, Senate Print 4394, an act to amend Chapter 521 of the Laws of 1994.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MEIER: Senator Hannon, an explanation has been requested of Calendar 634.

SENATOR HANNON: Thank you very much.

This bill would extend for two years the existence of the advisory council in regard to immunization, which basically has the purpose of taking a number of interested entities and having them watch the state's program of immunization of children and making a report if needed.

The members of the council are appointed by both the Majority and Minority of each of the Senate and the Assembly.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will yield for a question.

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

SENATOR HANNON: That I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator, I have supported this program in the past, and I would intend to support it again.

My question is, pursuant to the most recent authorization for this, did we require a report on the immunization registry as part of our last statutory enactment when we put this into effect?

SENATOR HANNON: That we did, Senator Dollinger.

SENATOR DOLLINGER: And through you, Mr. President, if Senator Hannon will continue to yield.

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

SENATOR HANNON: Yes. Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Has the State Health Department produced that report for the Chairman of the Health Committee or for the Assembly Health Committee?

SENATOR HANNON: I have not seen that.

And since you raised that, quite legitimately, at the committee meeting, the inquiries have been made. And we are told that it is in draft stage and its final production is expected. When asked when, we were not able to get that pinned down. So I don't have an answer there.

SENATOR DOLLINGER: Through you, Mr. President, just briefly on the bill.

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: I'm going to vote in favor of this bill and encourage everybody in the house to do that. But we have a continuing trend -- I've talked about this with the chair of the Health Committee,

and I note that perhaps because of my political affiliation, it's easier for me to articulate, but I think it's one that's shared beyond simply a member of the Democratic members of the Health Committee.

And that is as part of our sunsetting these provisions, we require the State Health Department to report to us on how it's going. In essence, that's all it is, is it's just an evaluation of the initial setup of the program, the immunization registry - which I think is a great idea, it gives us documentary information and public health information we need to be able to plan and make a determination as to the success or failure of this program or its potential for even greater success or for changes that could make it more effective.

And it seems to me that we can't do that if the State Health Department doesn't start providing us with these reports.

I know I've talked with the chairman of the Health Committee about this and said we have a number of extenders that we are going to do this year which continue

policies that I think are on the mark. But we're looking for guidance from the professionals in the Health Department to make sure that our gut reaction and our political sense and our anecdotal information is actually an accurate reflection of good, scientific, public health data.

So I'm going to vote in favor of this, Mr. Chair. I appreciate your continuing not only monitoring but sponsoring of the extenders in these programs. But it just seems to me we should really demand that the Health Department provide us with this technical assistance and guidance to make these programs not only continue but hopefully improve them as well.

I'm going to vote in favor. I'd encourage everybody to do that. But the State Health Department should begin to start putting these reports in place to guide us in our future deliberations.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Hannon.

SENATOR HANNON: Just to comment,

and maybe to amplify.

The very fact that this council exists and looks at both the rates of immunization themselves and the types of new immunizations that will be recommended by the expert groups gives us some confidence, because of the nature of the group. It has people from provider organizations, insurers, public health officials, consumer advocates and consumers.

And knowing how articulate and not at all shy the range of people involved in health care are throughout this state, I know that should there be problems, that they would quickly come to our attention.

So I would commend this for passage.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Hearing none, debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 767, by Senator Balboni, Senate Print 3690, an act in relation to allowing the Zion Baptist Church to file an application.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Balboni, a brief explanation -- I heard him say "brief" -

SENATOR BALBONI: Oh, thank you very much.

ACTING PRESIDENT MEIER: -- has been requested by Senator Paterson.

SENATOR BALBONI: Thank you, Mr. President.

October nine -- October, I think it was the 19th of 2000, in the Zion Baptist Church located in Port Washington, New York, which has been in existence and serving the community spiritually for -- let's see, I guess since 1919 -- they wound up opening their mail and finding a letter from the

assessor's office saying to them, Dear taxpayer: You own the property located at such-and-such mortgage -- I mean, such-and-such a parcel, and you owe taxes.

Now, this came as a shock, because as far as the Zion Baptist Church knew, they had applied properly for the tax-exempt status that we as a nation provide to religious institutions.

Lo and behold, when they checked with the assessor's office, they found that in fact there had been a clerical error which had resulted in that religious institution being taken off the tax-exempt rolls and being placed into the taxable rolls. As a result of that clerical error, the church owes approximately $10,000.

As soon as that letter arrived and an investigation was conducted by the church, the church took the necessary and appropriate steps to inform the assessor's office that in fact the clerical error was going to result in a hardship for them and it should be reversed. And it was, but prospectively only.

And therefore, this church is under

the burden of having to pay the 10,000-plus dollars unless we in this Legislature correct it, notwithstanding the fact that there was a clerical error.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will yield to just one question.

ACTING PRESIDENT MEIER: Senator Balboni, do you yield?

SENATOR BALBONI: Yes, I do, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: How did it come about that the church had to file a property tax exemption? Had it had just recently purchased the property?

SENATOR BALBONI: Mr. President, through you, it is not clear from the communications with the church as to why this communication came from the assessor's office.

SENATOR DOLLINGER: Through you,

Mr. President, if the sponsor will yield.

SENATOR BALBONI: Yes, I do, Mr. President.

ACTING PRESIDENT MEIER: Oh, you were only tantalizing us. Another question.

SENATOR DOLLINGER: I was, Mr. President. The answer wasn't what I anticipated.

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

SENATOR BALBONI: Yes, I do, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Well, through you, Mr. President, was this a new piece of property or is this a piece of property that they had owned for several years that the clerical error was made on?

SENATOR BALBONI: The information that I received both from the assessor's office and from the church indicate that there was no change in status of the ownership of the parcel, merely that it was taken off of the rolls.

As to what event led to that actually occurring, I do not know.

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

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: As everyone in this house knows, I have routinely voted against and will continue to vote against the partial property tax exemption relief bill that Senator Balboni -- and I would point out that Senator Balboni, who's always concerned by my commitment to bipartisanship, I voted against the bill from Senator Sampson as well, just to show that I will treat my colleagues on both sides of the aisle on this issue the same.

I go back to the fundamental point I have made in this chamber repeatedly. The question of a partial property tax exemption or abating property taxes through a partial year is a power that ought to be given to the assessors. Whether they're in the community of the county of Nassau or the town of Brighton that I represent or the city of

Rochester that I represent, they should all be treated the same.

We should pass a statewide bill that allows the assessors to grant partial property tax exemptions or, as in the case of Senator Balboni's Zion Baptist Church, we should allow them to abate property taxes and relieve communities from property tax exemptions when they have a good excuse; as in case, a clerical error.

Instead, we handle these bills all one at a time. We don't have a statewide bills that allows assessors to do this. Senator Hannon had the bill in the house I believe last year. And I have strongly urged my colleagues from Nassau County, where this problem seems to be epidemic in proportions, to come forward with a statewide bill that will solve this particular problem.

I know that the assessors are opposed to it, but that's no reason not to do it. We should give assessors throughout this state the ability to handle all of these problems related to property tax exemptions, and we ought to do it with a statewide bill.

Until we have one, I'm going to continue to vote against these bills for Nassau County, I'll vote against them from the City of New York, I will vote against them across this state, because what we need is a statewide solution. Until we get it, you can continue to record me in the negative, Mr. President.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Hearing none, debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54. Nays, 1. Senator Dollinger recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Skelos.

SENATOR SKELOS: Mr. President, would you please call up Calendar Number 965.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 965.

THE SECRETARY: Calendar Number 965, by Senator Skelos, Senate Print 3356A, an act to amend the Bay Park Library Services Act.

SENATOR PATERSON: Explanation, please.

ACTING PRESIDENT MEIER: Senator Skelos, an explanation has been requested by Senator Paterson.

SENATOR SKELOS: This legislation will allow election officials in the Bay Park library district to receive reasonable compensation for their services as polling place personnel.

In addition, the bill clarifies that special library districts shall rely exclusively on the voter registration lists of the Nassau County Board of Elections.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator Skelos would yield for a question.

ACTING PRESIDENT MEIER: Senator

Skelos, do you yield?

SENATOR SKELOS: Yes, I do, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator, this district that's been set up, is this by the will of the registered voters in that area or -

SENATOR SKELOS: Yes, it is. We passed that legislation in 1998.

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

SENATOR SKELOS: Yes, Mr. President.

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

Senator Paterson.

SENATOR PATERSON: At that time at which you referred, Senator Skelos, we set this $50 compensation fee. That was in 1998. I just wondered how we arrived at the $50 figure and why would we not just keep it that way as soon as three years later.

SENATOR SKELOS: If I could

respond, the legislation was submitted to us in that form. And now what we're doing is at the -- quite honestly, at the request of the Assembly, Assemblyman Weisenberg, who is sponsoring this legislation, they would like to amend it so it's "reasonable compensation," which is the language that's used in numerous other jurisdictions throughout the state.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Well, Mr. President, I have as high a regard for Assemblyman Weisenberg and the Assembly in general as Senator Skelos does, and so he's answered my question and convinced me, he and the Assembly, to vote for this bill.

SENATOR SKELOS: Thank you.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Hearing none, debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 780, by Senator Volker, Senate Print 4954, an act to authorize the participation of the County of Erie.

SENATOR PATERSON: Explanation.

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

SENATOR VOLKER: Mr. President, this is an implementation of an agreement between the State of New York, the County of Erie, the City of Buffalo, the Senate and the Assembly, which has previously been announced for a project known as the Adelphia Cable building and construction plan, which I believe is approximately about $150 million to $175 million.

There was some question about the necessity of this bill, but the county and the city felt that this bill was necessary to implement the agreement. This bill does not

actually authorize the funding. The funding obviously will be in the budget. The funding is in various types of taxing statutes and so forth.

For instance, there is a -- I believe it's a 12½ million -- 12.4 million Jobs Now grant. The County of Erie is providing an annual $1 million operating subsidy for the HSBC Arena and $7 million toward the construction of a new parking facility. The State of New York is committing about $50 million in economic development at this downtown Buffalo site, which is on the waterfront.

Adelphia Cable presently has about 500 people employed in the city of Buffalo. And with this building and the affiliated parking ramps and so forth, they will have another 1,000 people.

Very honestly, the hope is that this operation -- Adelphia Cable is a huge operation. It has well over 20,000 people nationwide. And the assumption is that sometime in the future Adelphia may well relocate other parts of its operations to

Buffalo, and this could in the long run mean 5,000 or more jobs to the city of Buffalo and the county of Erie.

So this was a very important project. It was negotiated over a period of years. It was publicly announced by the leaders of the Legislature and the Governor here some time ago. And this bill is a bill which would implement the memorandum of understanding and the various pieces of that project.

ACTING PRESIDENT MEIER: Senator Brown.

Oh, I'm sorry, hold just a second, Senator Brown. Pardon me.

Senator Skelos.

SENATOR SKELOS: If I could just interrupt, 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 Senate Majority Conference Room.

Senator Stachowski.

SENATOR STACHOWSKI: On the bill

very quickly, because I'm going to go to Rules.

ACTING PRESIDENT MEIER: Senator Stachowski, on the bill.

SENATOR STACHOWSKI: I just rise to support Senator Volker on this bill. It's a very important project to the city of Buffalo. It's very important to Western New York. I have the good fortune to have it located in my district.

And I think that it's taken a long time to get to this point, that we can pass this and move it along and hopefully the shovels will be in the ground and the building go up and the various jobs will come to fruition in downtown Buffalo.

It's a major piece for the city, a major piece for the county, and a major piece for the State of New York. So I support this project.

ACTING PRESIDENT MEIER: Senator Brown, pardon the interruption. It was the chair's fault. You have the floor.

SENATOR BROWN: That's okay, Mr. President. Also on the bill, I too stand to

support Senator Volker on this bill and Senator Stachowski.

This is an important piece of legislation for the city of Buffalo, as we have all heard in this chamber. It will move the Adelphia project forward and expand the operations of Adelphia Cable in the city of Buffalo.

And as Senator Volker indicated, it will retain 500 jobs in our city and create another 1,000 jobs. And for a community like Buffalo and Erie County, where we have unfortunately been bypassed by the economic boom times that the rest of the state has enjoyed, this is just a major project that will move waterfront development in the city forward. And also, it will stabilize the Buffalo Sabres hockey franchise.

Also important to note, Senator Volker mentioned the agreement between the state, the county, and the city, including the work of the Buffalo City Council in this legislation. And through the involvement of the city council and the council president, the minority participation goals on this

project were significantly increased. Those goals will now be 20 percent.

And that is also evidence that this project will benefit the entire city of Buffalo, the entire county of Erie and will be a major benefit to the State of New York as well.

So I'm happy to join Senators Volker and Stachowski in voting for this piece of legislation.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Hearing none, debate is closed.

There is a home rule message at the desk.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

The Secretary will read Calendar

793.

THE SECRETARY: Calendar Number 793, by Member of the Assembly Gottfried, Assembly Print Number 7494A, an act to amend Chapter 725 of the Laws of 1989.

SENATOR DeFRANCISCO: Can we lay this aside temporarily. Senator Dollinger had a question, and he's not present at the moment.

ACTING PRESIDENT MEIER: Lay the bill aside temporarily.

THE SECRETARY: Calendar Number 803, by Senator DeFrancisco, Senate Print 2567, an act in relation to authorizing the County of Onondaga.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator DeFrancisco, an explanation has been requested by Senator Paterson.

SENATOR DeFRANCISCO: Yes. I have a home rule message from both the town and from the County of Onondaga.

The County of Onondaga acquired certain parcels of land near the Erie Canal back about 1983. And at that time, they were

supposed to, if they were going to use the property, if at all, for recreational and - recreational purposes.

The county has not done that and indicates they have no intention in the near future to do that because of the lack of sufficient financial resources to do it. The Town of Van Buren is willing to take on that responsibility and develop this area as a recreational use.

And as a result, both the town and the county sent home rule messages to us indicating that they would like the state law, which is necessary to make the transfer occur.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, if Senator DeFrancisco would yield for a question.

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

SENATOR DeFRANCISCO: Yes. Yes, I would.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator, it's been 18 years and 41 acres of land that I guess were originally designated to go to the county from the Department of Transportation. And I guess the only concern I have is the reason for the original transference, and perhaps whether or not there are any environmental hazards on the land that existed before or could have developed in the last 18 years.

SENATOR DeFRANCISCO: Well, the reason for the original transfer to the County of Onondaga was that the State DOT had no use for the property, did not want to maintain it in any way. The town at least was -- the county was at least willing to maintain it.

It's my understanding that there could not be any possible environmental problems that existed that occurred between 1983 and the present, since nothing has been done in the land other than to clear some land when it becomes a hazard.

So I can't say with certainty, but that's the understanding that I have.

SENATOR PATERSON: Thank you,

Senator.

Mr. President, if the Senator would yield for another question.

ACTING PRESIDENT MEIER: Senator DeFrancisco, do you yield?

SENATOR DeFRANCISCO: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: I might have put the cart before the horse, Senator, because what I think I really should have asked, Mr. President, was if there was any particular reason why the county didn't develop the land.

That doesn't inhibit my vote at all, because if it's been there for 18 years, certainly if the Town of Van Buren would like to take a shot at developing the land, if it's certainly fine with the county and the town, it's fine with me.

But I guess I'm just -- I guess that's why I wondered why the township didn't turn the land into some parkland or for some recreational use.

SENATOR DeFRANCISCO: Well, the

county had the property, so the town has been unable to do that up to this point in time. If this legislation passes, the town can undertake improvements to make this a recreational area.

The county has given us the reason that they haven't done anything is they don't think that this is a priority and they don't have the resources to make this a priority.

And so the town, since the property is very valuable to the town, is willing to undertake that responsibility.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Hearing none, debate is closed.

There is a home rule message at the desk.

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, 55.

ACTING PRESIDENT MEIER: The bill is passed.

Senator DeFrancisco.

SENATOR DeFRANCISCO: Mr. President, may we go back to Calendar Number 793, please.

ACTING PRESIDENT MEIER: The Secretary will read Calendar 793.

THE SECRETARY: Calendar Number 793, by Member of the Assembly Gottfried, Assembly Print Number 7494A, an act to amend Chapter 725 of the Laws of 1989.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Seward, an explanation has been requested by Senator Paterson.

SENATOR SEWARD: Yes, Mr. President.

This bill before us simply extends a supplemental financial assistance for hospice care of persons with special needs in the Medicaid program. It's due to expire on

July 1 of this year, and this would extend it for another two-year period, to July 1, 2003.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will yield for a question.

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

SENATOR SEWARD: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator Seward, I'd ask you the same question I asked Senator Hannon earlier.

As part of the extender, in the prior bill that we had passed was there a report to be produced by the Commissioners of Health and Social Services to detail the circumstances under which the supplemental financial assistance program for hospice care should continue?

SENATOR SEWARD: Yes, there is. There will be a report made by the

Commissioner of Health and Social Services to the chairs of the Senate and Assembly Standing Committees on Health and Social Services, which basically will evaluate the provisions of the supplemental financial assistance program.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Seward will continue to yield.

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

SENATOR SEWARD: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Did the Commissioner of Health and the Commissioner of Social Services produce the report that was due on or before January 1, 2001?

SENATOR SEWARD: Mr. President, that report has yet to be forthcoming.

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

ACTING PRESIDENT MEIER: Senator Dollinger, on the bill.

SENATOR DOLLINGER: As a famous president once said, here we go again.

This is another instance where we have asked our commissioners to prepare a report, in this case a report to the Senate and the Assembly on the cost-effectiveness, the financial status of hospices, the impact on patient care, including the impact on institutionalization, recommendations for modifications and such other matters as may be appropriate in our hospice care program in this state.

By law, we said to the Commissioners of Social Services and Health: Give us a report. Tell us what we need to know to determine whether this program is a success and a worthwhile investment for New Yorkers.

No report. I would suggest, Mr. President, that this is part of what I consider to be a very disturbing trend. For some reason, the commissioners don't believe they have any obligation to follow the law. When we say "Give us a report," their reaction is: We don't really need to do that. The

Legislature will enact the program again. The Legislature will continue the program whether we produce the report or not.

I would suggest, Mr. President, what we need to do is to tell the commissioners and this administration that this Legislature is not simply going to stand as a rubber stamp for the continuation of these programs but, instead, we're going to require reports and an analysis of these programs before we extend them.

I'm willing to do it in this instance upon the recommendation of the commissioner -- or the chair of the Insurance Committee, but this is a disturbing lack of compliance with this administration and the will of this Legislature. It's an alarming trend.

As I think I said at the hast Health Committee meeting, there are 32 examples we've found of programs that are up to expire, set to expire that we've been asked to extend by the administration on the second floor for which we have never received a report on the effectiveness of the program.

I think the administration is dropping the ball, and I think we should send a message to the Commissioner of Health and the Commissioner of Social Services that we mean what we say. When we ask for a report detailing the effectiveness of these programs, we ought to get it before we act.

I think we're shirking our responsibilities if we continue to do this. And I think it's an alarming lack of information from the administration about how these programs are working.

I'm going to vote for it in this case, upon the recommendation of the chairman of the Insurance Committee. But the trend is disturbing and apparently only getting worse, Mr. President.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Hearing none, debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 806, by Senator Seward, Senate Print 3517, an act to amend the State Finance Law, in relation to matching funds.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Seward, an explanation has been requested of Calendar 806 by Senator Paterson.

SENATOR SEWARD: Mr. President, this legislation would lower from 50 percent to 25 percent the match that is required for loans made through the Emergency Services Revolving Loan Fund. And it would also eliminate a provision which prohibits other state funds to be used for the same purpose.

The Emergency Services Revolving Loan Fund is administered by the Department of State. It's been very, very helpful to a number of our fire departments, emergency squads, and the like who provide emergency services to the citizens of our state. And

this loan fund provides them with low-cost financing options to purchase the fire apparatus, equipment, and all of the things that are necessary for them to carry out their important work.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President, this is certainly very important equipment for which the loan fund is being increased. If Senator Seward would yield for a question.

ACTING PRESIDENT MEIER: Senator Seward, do you yield?

SENATOR SEWARD: Certainly, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator, is there currently a surplus in the Emergency Services Revolving Loan Fund that would accommodate this kind of request?

SENATOR SEWARD: Mr. President, there currently is not a surplus in the revolving loan fund. But there's no question that once we complete action on a state

budget, that I'm very hopeful that we as a Legislature will add some additional monies to this revolving loan fund.

In fact, our Senate budget resolution suggests that this house is on record as supporting an additional $4 million be added to this fund. $13 million has been appropriated to date, and more than $19 million has actually gone out in the form of loans.

Because of the revolving nature of the fund we're able to, as the loans are paid off, able to reissue those funds in the form of additional loans. And that is all in addition to what new funds we appropriate each year.

SENATOR PATERSON: Mr. President, if Senator Seward would yield for another question.

ACTING PRESIDENT MEIER: Senator Seward, do you yield?

SENATOR SEWARD: Yes.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR PATERSON: Senator, from

a policy standpoint I'm just concerned that projects that are as worthy as the one that brings us to this discussion might be lost because if we were to increase the state match under the revolving loan fund, there might be a point in which we exhaust the resources and so other, certainly worthy causes would be mitigated by the fact that we don't have the funds to really support them in the future.

So that was why I asked you if there was a surplus there. My concern is that in an attempt to accommodate the issue that brings us here today, some of the emergency medical equipment and that type of thing, that there might be other requests in the future that would be reduced because we've spent up all the money by increasing the state match to 75 percent.

So I just wanted to get from you an understanding of how that will not be the case.

SENATOR SEWARD: Well, Mr. President, the basis of the legislation before us is to assist the smaller, financially hard-pressed fire departments, emergency

squads, and those types of not-for-profit entities that provide these emergency services.

It's interesting to note, this revolving loan fund has issued 197 loans. And of that 197 loans, a full 108 of those have been loaned to companies or municipalities with an operation budget of less than $100,000.

And so when we're talking about loaning to such small departments and municipalities that are attempting to purchase a piece of fire apparatus that may be -- a quarter of a million dollars is nothing when it comes to this type of equipment in this day and age.

And what this legislation will do will be to give the revolving loan fund board the flexibility to work with these municipalities by, number one, increasing to 75 percent of the total cost of the project, to let them have the ability to actually make the purchase of the apparatus or equipment, and, in addition to that, allow them to seek other state funds to make up the difference.

So we're really trying to assist those smaller departments. And I think it's incumbent upon this Legislature to do exactly that through the passage of this bill and, when we do a budget, to make sure that there are sufficient funds there to assist these hard-pressed departments through additional appropriations.

I certainly support that, and I'm sure that it has bipartisan support in this house.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: The proposal has support from me.

Certainly some of the smaller companies and those areas are exactly where the flexibility of the board will come into play. Particularly, as Senator Seward points out, when you have fire apparatus or something that can run a large amount of money and by which they now have greater latitude to expand the coverage of the state match to 75 percent

from 50.

But I hope that Senator Seward's feelings on this will be remembered in the budget process. Because without the resources, then I think the point that I was making earlier would actually come to the fore. And that is specifically that we wouldn't want the flexibility to lead to a situation where, when you back-load proposals, we will have those types of requests come in in the future and don't have the resources to meet them.

Assuming that's not the case, I'll vote for the bill.

ACTING PRESIDENT MEIER: Senator Onorato.

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

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

SENATOR SEWARD: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR ONORATO: Senator Seward,

Senator Paterson raised one of the questions that I was concerned with, that by increasing the amendment from 50 to 75 percent, that it may prohibit other companies from opting into the program because they may have exhausted all of the funds.

But under the current proposal that you are proposing, prior to this here, if they were receiving some form of state aid, that they could not apply for any other state monies.

Has this now been changed, that in spite of the fact that they may be receiving additional funds from a particular state aid, that they will no longer be prohibited from receiving further aid from another state entity?

SENATOR SEWARD: Mr. President, under the provisions of the bill before us, we would be making that change.

Currently, if a department is receiving other state funds in any form, then they would be prohibited from receiving a loan from the revolving loan fund. This bill would take away that prohibition and allow them to

not only borrow money through the revolving loan fund, but also to apply for and to receive other state funds to assist in the purchase of the item which they seek to purchase.

SENATOR ONORATO: Thank you, Senator. I think that it's a very good bill, and I think that we should make these other companies aware of this particular change, that they will have other sources that they can apply to.

I will be supporting the bill.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 813, by Senator Balboni, Senate Print 4208A,

an act to amend the Environmental Conservation Law, in relation to matching grants.

SENATOR OPPENHEIMER: Explanation, please.

SENATOR SCHNEIDERMAN: Explanation.

ACTING PRESIDENT MEIER: Senator Balboni, an explanation has been requested of Calendar 813.

SENATOR BALBONI: Thank you, Mr. President.

This bill is essentially a bill that attempts to continue a source of funding for a program that has been very successful in containing nonpoint source pollution.

Essentially, what the bill would do is -- well, first off, nonpoint source pollution associated with storm water discharges has been identified as a major cause of water quality impairment -- i.e., pollution -- in New York State and throughout the nation.

Monies from the EPF have been assisting municipalities in attempting to get more of these storm drains built. A recent

change has required that municipalities permit these operations. That is, before they begin them, they must apply for a permit.

The problem is that when you change the requirement that these storm drains must be permitted, you now make them ineligible for the funding that they had previously received; therefore, denying municipalities of another stream of revenue to help offset the costs associated with these types of facilities.

This bill would allow the municipalities, notwithstanding the permitting requirements, to continue to receive this funding.

And that is all she wrote.

(Laughter.)

SENATOR BALBONI: Or he wrote.

ACTING PRESIDENT MEIER: Senator Oppenheimer.

SENATOR OPPENHEIMER: If the good Senator would yield.

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

SENATOR BALBONI: Yes, I do, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR OPPENHEIMER: I'm listening intently to what you said, and I think I probably know the answer to this because of what you said, though I'm not absolutely certain. So let me phrase it.

The Environmental Protection Fund was not designed to fund mandatory environmental compliance projects. They have been funded always by the EFC. Now, why - why can't -- you said because now we are going to be requiring permits, that it no longer can be funded under the EFC, it has to be under the EPF. Why? Just because we require that there be a permit before they improve the storm water system?

SENATOR BALBONI: Mr. President, through you. In way of response, Senator Oppenheimer, actually, I -- if I indicated that there was another source of funding without this particular piece of legislation for these permitted facilities, I misspoke. There is no funding if we don't pass this bill, from any system.

That is because these types of facilities were previously funded under the Environmental -

SENATOR OPPENHEIMER: Facilities.

SENATOR BALBONI: - Facilities -

SENATOR OPPENHEIMER: Corporation.

SENATOR BALBONI: What's the name of it?

SENATOR OPPENHEIMER: EFC.

SENATOR BALBONI: No, it's EPF. They were originally funded under EPF.

If we don't pass this bill, they will not be eligible for funding under the EPF, because of the requirement that these types of facilities are now permitted. In other words, you have to get a permit before you build them.

Now, I asked the very same question: Why does that technical change result in the lack of funding? And I was told that that is because traditionally, and perhaps it's a historical hangover, these - once you say to somebody or to an organization

or to a group "You must receive a permit," then traditionally that has indicated that there's an industrial component or a profit-making component of the individuals seeking to get into the program. Once you have a profit-making component, then you don't need funding.

So here we have an aberration. There's no industrial community seeking storm drains. They're municipal. Municipalities don't make profits. So it is outside our experience.

However, there is a precedent. Under a bill that Senator Kuhl passed through the Water Resources Committee -- as you know, which I chair -- last year, CAFOs -- which again I have to check what it stands for - Concentrated Animal Feeding Operations were given the exemption to be permitted facilities, permitted operations, and yet still receive the funding.

And so what we're doing here is we're taking the CAFO model and we're applying it to the municipal storm drain program under this funding stream. A tad technical.

SENATOR OPPENHEIMER: No. I mean yes.

But if I may ask another question, through you.

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

SENATOR BALBONI: Yes, I do, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR OPPENHEIMER: This is to fund nonpoint source pollution. It is almost never industrial.

SENATOR BALBONI: That's correct.

SENATOR OPPENHEIMER: You said because it was now industrial -- because normally it's industry -

SENATOR BALBONI: No, no, no, I meant -- I'm sorry. Mr. President, through you, may I just correct a statement that I made before. If I were in court, I'd say "Strike that, please keep the following."

Historically, when operations, activities under the environmental -- in the environmental area have required permits, the

fact that they require permits makes them ineligible for funding. Because traditionally, activities that are regulated, to the extent that they are required to be permitted, have an industrial component to them, or industrial motivation, incentive. Therefore, they make profits. Therefore, why would you give them an incentive to do it?

Now we have a situation that does not fall into that classification. We now have a situation where it is primarily a municipal operation. But now we're requiring that they be permitted in addition. So therefore, the permitting process that would normally apply to an industrial application now applies to a municipal one. Hence the need for the change in the legislation.

SENATOR OPPENHEIMER: This has inspired an additional question.

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

SENATOR BALBONI: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR OPPENHEIMER: Actually, a

few questions.

SPEDES permits, which were always required for industrial waste disposal in the water, is totally separate from nonpoint source, which is this. Now, this legislation, are you telling me that in the past we did not have any funding available for nonpoint source pollution?

This may be a bit boring for most people. I'll tell you why it's good for me.

SENATOR BALBONI: Mr. President, through you. A SPEDES permit applies to point source pollution.

SENATOR OPPENHEIMER: Point source, right.

SENATOR BALBONI: These are nonpoint source pollution operations. And therefore, that's why this is a separate and distinct situation from the SPEDES.

SENATOR OPPENHEIMER: Oh, I understand that.

What the question was -- I'll just reiterate. Did we have funding for nonpoint source pollution in the past coming from the state to municipalities?

SENATOR BALBONI: Yes.

SENATOR OPPENHEIMER: And that money did not come down through this stream, which is the EPF, it always came down under EFC.

SENATOR BALBONI: No, it came from EPF.

SENATOR OPPENHEIMER: It did come from EPF.

SENATOR BALBONI: It came from EPF.

SENATOR OPPENHEIMER: Okay. Well, then, I have a question, if the Senator will yield again.

ACTING PRESIDENT MEIER: Senator Balboni, do you yield?

SENATOR BALBONI: Yes, I do, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR OPPENHEIMER: How large is the nonagricultural point source EPF account currently funded at? And do you expect the account to be very much increased now that we have these additional requirements

made on the fund?

SENATOR BALBONI: Mr. President, allow me to be specific. Senator, the legislation does not create any new opportunities for funding. It rather continues the availability of funding for projects that would otherwise have been funded had there not been this permitting requirement.

SENATOR OPPENHEIMER: Okay. Now, I see that there are -

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

SENATOR OPPENHEIMER: Yes.

ACTING PRESIDENT MEIER: Do you yield, Senator Balboni?

SENATOR BALBONI: Yes, I do, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR OPPENHEIMER: Which entities are currently not able to access EPF funding for this nonpoint source and they're going to now be made eligible? You say that

there are 225 entities that will now be coming in in the course of the next year for this funding. Which of these new entities?

SENATOR BALBONI: Mr. President, information that might be helpful in your deliberations on this piece of legislation, Senator, is the fact that in the budget resolution adopted by this house there's an additional $4 million appropriated for these types of projects to help meet the funding requirements of these projects, particularly if this bill passes.

SENATOR OPPENHEIMER: Thank you, Senator. One more question, if you will yield.

ACTING PRESIDENT MEIER: Senator Balboni, do you yield?

SENATOR BALBONI: Yes, I do, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR OPPENHEIMER: I have some trouble understanding why a school district - or I can understand, I guess, almost everything but a school district. Why would a

school district be able to come in for the nonpoint source when it is the municipality or the sewer district or other entities? Where would a school district fit into this?

SENATOR BALBONI: I'm sorry, Mr. President, through you. Would you care to point to the reference that says "school district"?

SENATOR OPPENHEIMER: Okay, so there wasn't a specific reference. All right. Someone had told me that. Okay. Excellent.

SENATOR BALBONI: Mr. President, through you, it is my information that this applies to storm drains built by municipalities. To the extent that a school district would build a storm drain, they might be eligible. I do not know.

SENATOR OPPENHEIMER: It does say -- I thought I saw "school districts."

SENATOR BALBONI: Yeah. Where?

SENATOR OPPENHEIMER: Well, supervisory district also. But it does say "school district."

SENATOR BALBONI: Oh, okay.

SENATOR OPPENHEIMER: And from my

knowledge, it is a municipality or a sewer district that controls the development of storm water drains.

SENATOR BALBONI: In other words, you're referring to line 6 of the first page of the bill, as to the reference.

That definition of "municipality" tracks the definition of "municipality" used throughout law.

SENATOR OPPENHEIMER: Uh-huh. Okay. Thank you, Senator.

SENATOR BALBONI: You're very welcome.

SENATOR OPPENHEIMER: On the bill.

The reason I was pursuing this so closely is because I think my village is probably nonpoint source pollution capital of New York State. And -- yes, it's very sad. And we have done many things to try and bring this under control.

Because our harbor now, where we have a beach and lovely facilities for our community, has been closed to swimming. This will be its second or third year that it will

be closed to swimming. And it is not so much point source but nonpoint source. And it is an issue of grave concern.

We have smoke-tested houses so that we see where those houses that originally were supposed to, of course, be tied in with their gutters and leaders into their storm water system have indeed tied their gutters and leaders with the rainwater flowing through into their sanitary systems, because it is closer to the house and so therefore the cost is not so severe.

We're looking for all the help we can get. It's not just my particular village, but also the whole drainage area that comes down to our sewer treatment plant.

So this is an important source of funding, and we will be pursuing it. And thank you for explaining to me the changes that were necessary to continue the funding.

I'll be voting yes.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Debate is closed.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 822, by Senator Maziarz, Senate Print 4057, an act to amend the Not-for-Profit Corporation Law, in relation to allowing.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Maziarz, an explanation has been requested of Calendar 822 by Senator Paterson.

SENATOR MAZIARZ: Thank you very much, Mr. President.

This bill would amend the Not-for-Profit Corporation Law to allow the South Lockport Volunteer Fire Company to appoint more than 45 percent of its members from outside the town of Lockport.

The town of Lockport is immediately adjacent to the city of Lockport. And

although the South Lockport Volunteer Fire Company has no town residents on its waiting list who are requesting membership, they have several residents from the city of Lockport who are requesting to join the volunteer fire service but are prohibited from doing so by the Not-for-Profit Corporation Law.

This particular piece of legislation would exempt the South Lockport Volunteer Fire Company from that particular restriction.

And I might add that since 1998, several volunteer fire companies within the State of New York -- I'll just mention a couple, Mr. President. Mechanicstown and Goodwill Fire Departments in Orange County, the Jericho Fire District in Nassau, the Orangeburg Fire District in Rockland County, and North Castle South District Number One in Westchester County have all been granted similar exemptions by legislation.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Paterson.

SENATOR PATERSON: Mr. President,

I hope that Senator Maziarz's birthday that he celebrated Friday was satisfactory, because the explanation was certainly satisfactory.

ACTING PRESIDENT MEIER: Any other Senator wish to be heard on the bill?

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

Senator McGee.

SENATOR McGEE: Mr. President, would you please lay aside for the day Calendar Numbers 505 and 966.

ACTING PRESIDENT MEIER: Calendars 505 and 966 will be laid aside for the day.

SENATOR McGEE: If we could return now to reports of standing committees, please.

ACTING PRESIDENT MEIER: Order of

reports of standing committees.

SENATOR McGEE: I believe there's a committee report from the Rules Committee.

ACTING PRESIDENT MEIER: The Secretary will read.

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

Senate Print 84, by Senator Hoffmann, an act to amend the Penal Law.

1133, by Senator Alesi, an act to amend the Penal Law.

1342, by Senator Saland, an act to amend the Criminal Procedure Law.

2121, by Senator Kuhl, an act to amend the Education Law.

2205A, by Senator Santiago, an act authorizing the City of New York.

2519, by Senator Kuhl, an act to amend the Environmental Conservation Law.

3374, by Senator Alesi, an act to amend the Retirement and Social Security Law.

4216, by Senator Seward, an act to amend the Alcoholic Beverage Control Law.

4512, by Senator Johnson, an act to

amend the Criminal Procedure Law.

4722, by Senator Velella, an act to amend the Penal Law.

4723, by Senator Velella, an act to amend the Penal Law.

5308, by Senator A. Smith, an act authorizing the City of New York.

And 5313, by Senator Volker, an act to amend the Penal Law and the Correction Law.

All bills ordered direct to third reading.

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

ACTING PRESIDENT MEIER: The

bills on the Rules Committee report will be sent directly to third reading.

We have some motions, I believe, Senator.

Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

On behalf of Senator Meier, on page number 61, I offer the following amendments to Calendar Number 915, Senate Print Number 4094, and ask that said bill retain its place on Third Reading Calendar.

ACTING PRESIDENT MEIER: Thank you, Senator. The amendment is received and adopted, and the bill will retain its place on the Third Reading Calendar.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

On page number 23, I offer the following amendments to Calendar Number 466, Senate Print Number 4022, and ask that said bill retain its place on the Third Reading Calendar.

ACTING PRESIDENT MEIER: The

amendments are received and adopted, and the bill will retain its place on the Third Reading Calendar.

SENATOR MARCELLINO: Thank you.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: Mr. President, on page 22, I offer the following amendments to Calendar 451, Senate Bill 4023, and I ask that the bill retain its place on Third Reading Calendar.

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

Senator McGee.

SENATOR McGEE: Is there any further housekeeping at the desk?

ACTING PRESIDENT MEIER: That is all that we have at the desk, Senator.

SENATOR McGEE: There being no further business, I move we adjourn until Wednesday, May 30th, at 11:00 a.m.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until

Wednesday, May 30th, at 11:00 a.m.

(Whereupon, at 4:30 p.m., the Senate adjourned.)