NEW YORK STATE SENATE

THE STENOGRAPHIC RECORD

ALBANY, NEW YORK

June 6, 2001

11:14 a.m.

REGULAR SESSION

SENATOR RAYMOND A. MEIER, Acting President

STEVEN M. BOGGESS, Secretary

P R O C E E D I N G S

ACTING PRESIDENT MEIER: The Senate will come to order.

May I ask everyone present to please rise and join me in repeating the Pledge of Allegiance to the Flag.

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

ACTING PRESIDENT MEIER: In the absence of clergy, may we now bow our heads in a moment of silence.

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

ACTING PRESIDENT MEIER: Reading of the Journal.

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

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

Presentation of petitions.

Messages from the Assembly.

Messages from the Governor.

Reports of standing committees.

Reports of select committees.

Communications and reports from state officers.

Motions and resolutions.

Senator Marcellino.

SENATOR MARCELLINO: Thank you, Mr. President.

On behalf of Senator Bonacic, on page number 44, I offer the following amendments to Calendar Number 828, Senate Print Number 5118, 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.

Mr. President, I wish to call up Calendar Number 323, on behalf of Senator Farley, Assembly Print Number 6570.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 323, by Member of the Assembly Gantt, Assembly Print Number 6570, an act to amend the Vehicle and Traffic Law.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I now move to reconsider the vote by which this Assembly bill was substituted for Senator Farley's bill, Senate Print Number 1992, on April 24.

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 37.

ACTING PRESIDENT MEIER: Senator Marcellino.

SENATOR MARCELLINO: Mr. President, I now move that Assembly Bill Number 6570 be committed to the Committee on Rules and Senator Farley's Senate bill be restored to the order of Third Reading Calendar.

ACTING PRESIDENT MEIER: So ordered.

SENATOR MARCELLINO: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR MARCELLINO: Thank you.

Mr. President, I wish to call up Senator Wright's bill, Print Number 4109, recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 675, by Senator Wright, Senate Print 4109, an act to amend the Environmental Conservation Law.

SENATOR MARCELLINO: 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, 37.

SENATOR MARCELLINO: Mr. President, I now offer the following

amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR MARCELLINO: Thank you, Mr. President.

ACTING PRESIDENT MEIER: Senator Skelos.

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

ACTING PRESIDENT MEIER: Yes, we have some substitutions.

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

ACTING PRESIDENT MEIER: The Secretary will read the substitutions.

THE SECRETARY: On page 54, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 4952A, and substitute it for the identical Senate Bill Number 2597A, Third Reading Calendar 1032.

On page 54, Senator Velella moves to discharge, from the Committee on Rules, Assembly Bill Number 4953 and substitute it for the identical Senate Bill Number 2598,

Third Reading Calendar 1033.

And on page 55, Senator Saland moves to discharge, from the Committee on Rules, Assembly Bill Number 7751A and substitute it for the identical Senate Bill Number 5134, Third Reading Calendar 1043.

ACTING PRESIDENT MEIER: Substitutions ordered.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, on behalf of Senator Saland, on page number 56, I offer the following amendments to Calendar Number 223, Senate Print Number 3148, 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 Skelos.

SENATOR SKELOS: Mr. President, there are two privileged resolutions at the

desk by Senator Seward. I ask that the titles be read and move for their immediate adoption.

ACTING PRESIDENT MEIER: The Secretary will read the titles of the privileged resolutions.

THE SECRETARY: By Senators Seward and Meier, Legislative Resolution Number 2309, honoring John W. Young, Director of Emergency Services and Fire Coordinator for Herkimer County, upon the occasion of his retirement.

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.

The Secretary will continue to read.

THE SECRETARY: By Senator Seward, Legislative Resolution Number 2310, honoring Gordon B. Roberts upon the occasion

of his designation as recipient of the 2001 Outstanding Citizen Award by Hartwick College on June 8, 2001.

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

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The resolution is adopted.

Senator Skelos.

SENATOR SKELOS: May we please take up Senator Bonacic's resolution, 2260, which was adopted yesterday, and have it read in its entirety.

ACTING PRESIDENT MEIER: The Secretary will read Resolution 2260.

THE SECRETARY: By Senator Bonacic, Legislative Resolution Number 2260, honoring the Valedictorians and Salutatorians of the 40th Senate District, in recognition of their outstanding academic accomplishments, at a celebration to be held at the State Capitol

on June 6, 2001.

"WHEREAS, It is the sense of this Legislative Body to act, in accord with its longstanding traditions, honoring the youth of today -- the leaders of tomorrow -- whose character and achievements best exemplify the ideals and values cherished by this great State and nation; and

"WHEREAS, This Legislative Body is justly proud to recognize and commend the high achievements of these dedicated students in the 40th Senate District on the occasion of a special celebratory visit to be held at the State Capitol in Albany, New York, on Wednesday, June 6, 2001. At this time the Valedictorians and Salutatorians will receive special recognition from the Senate in the Senate Chamber; lunch will be served in the office of their State Senator, followed by a tour of the Capitol Building; and

"WHEREAS, These Valedictorians and Salutatorians represent the best of developed potential inherent in all our most precious resources, our youth, and their achievements have brought enduring honor to their families

and communities, and should be recognized and saluted; and

"WHEREAS, The Valedictorians who are being honored today for their outstanding performances and exemplary achievements include: Dolores Conklin, Renee Minard, Julie Stackhouse, Emily Leidner, Michael Cassaro, Rebecca Roberts, Karla Jones, Mary Raum, Jayme Ahmed, Nicole Longendyke, Beth Meyer, Elizabeth Tunison, Emily Ulmer, Zachariah Baker, Daniel Hui, Christina Hamalainen, Elizabeth Carr, Danielle Austin, Olga Romanova, Nicholas Illobre, Bethany Thorne, Katie Spidle, Christina Oliveri, Nathaniel Robbins, Laura Constantinides, Ashley Bowers, Andrea Kreiger, Lauren Lecour-Johnson, David Oropallo, Jill Barbuti, Elia Tait, Christopher Brown, Christopher Christiana and Benjamin Haldeman; and

"WHEREAS, The Salutatorians who are being honored today for their outstanding performances and exemplary achievements include: Kristen Borstelmann, Michael Graham, Samantha Triolo, Heidi Burger, Grace Rubin, Anton Johnson, Jackie Ropke, Darren Andrade,

Joel Indelicato, Megan Palmer, Stacey Poloskey, Ryan Paolino, Raquel Steres, Raymond Ross, Matthew Dwon, Sara Scheinman, Michael Dickstein, Robert Zottarelli, Darren Rowen, Joseph Roucken, Faith Critti, Nicole Norwick, Aaron Powell, Stefanie Vesely, Christopher Frank, Scott Denman, Rebekka Doolittle, Cory Bene, Jason Hnatko, Justin Spielmann, Jessica Radcliffe, Adrienne Caramore, Mohammad Majeed and Mark Rood; and

"WHEREAS, These Valedictorians and Salutatorians may now stand with pride as they assess their achievements, experience the satisfaction of their labors and the joy of their accomplishments, eager to experience the challenges of new experiences as they face a challenging world with bright promise; now, therefore, be it

"RESOLVED, That this Legislative Body pause in its deliberations to honor the Valedictorians and Salutatorians of the 40th Senate District, in recognition of their outstanding academic accomplishments, at a celebration to be held at the State Capitol on June 6, 2001, and be it further

"RESOLVED, That copies of this resolution, suitably engrossed, be transmitted to the aforementioned Valedictorians and Salutatorians."

ACTING PRESIDENT MEIER: Senator Bonacic.

SENATOR BONACIC: Thank you, Mr. President.

This is a very happy and proud day for me, because I get to show off the valedictorians and salutatorians from our 37 school districts from the 40th Senate District. We're here to congratulate them and their parents for their academic achievement.

We suggest that they consider the State of New York when they finish their education, both for higher education and perhaps they may begin a career here, because we do believe there are many wonderful opportunities that exist right here in our backyard in this wonderful state.

We had an education forum this morning for about an hour, and we had guest speakers from various universities in the SUNY system that shared their ideas and the

opportunities that our school infrastructure has in the State of New York.

In addition, we're going to have a pizza party when we're done, at 12:00 o'clock, on the third floor of the LOB. And I ask, on behalf of the Senators here, and myself, we stand to honor you today and to congratulate you.

And the last thing I would ask is that when you go through life, in whatever occupation you choose, that you try to make the world a little bit better than you found it.

Thank you, Mr. President.

ACTING PRESIDENT MEIER: The resolution was previously adopted.

Senator Skelos.

SENATOR SKELOS: Mr. President, if we could go to the noncontroversial calendar.

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

THE SECRETARY: Calendar Number 50, by Member of the Assembly Weisenberg,

Assembly Print Number 5141, an act to amend the Social Services Law, in relation to visitor check-in.

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 Marcellino.

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

This bill requires that daycare centers provide for a process of identifying people who enter their premises. It has already passed the Assembly. It's passing here today. I'm very proud to be the sponsor here.

This bill will provide for security for our youngsters whose parents leave them in the care of others. And everyone who does that should have the feeling that when they leave a child in a daycare center, that child

is under the protection of that center and that no one will gain entrance to that place without having proper reason to be there.

So I vote aye on this bill, Mr. President, proudly.

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

Announce the results.

THE SECRETARY: Ayes, 41.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 363, by Senator Marcellino, Senate Print 392B, an act to amend the Penal Law, in relation to surreptitious video surveillance without consent.

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.)

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

SENATOR MARCELLINO: Yes, Mr. President. This bill is a worthy bill. It creates the crime of surreptitious video surveillance.

Right now there is no crime for someone to secrete a camera in a place where otherwise you would have every expectation to be in complete privacy. They take photographs -

ACTING PRESIDENT MEIER: Senator Marcellino, could I interrupt you a moment.

Can we have some order in the chamber.

Senator Marcellino.

SENATOR MARCELLINO: As I was saying, you could take photographs and disseminate them in many different ways. This will create that crime.

This has happened in this state and many other areas. We feel it's time for this to be stopped and these perverts to be taken to jail and put in prison where they belong and this act stopped so that people will be

protected.

I vote aye. And thank you very much, Mr. President.

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

Announce the results.

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 374, by Member of the Assembly Morelle, Assembly Print Number 4911A, an act to amend the Parks, Recreation and Historic Preservation 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, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 412, by Senator Saland, Senate Print 4230, an act to amend the Domestic Relations Law.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 45.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 493, by Senator Velella, Senate Print 3813, an act to amend the Executive Law, in relation to voting members.

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 504, by Senator Morahan, Senate Print 2791A, an act in relation to permitting.

SENATOR DOLLINGER: Lay it aside, please, Mr. President.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 526, by Senator Leibell, Senate Print 2366, an act to amend the Civil Service Law, in relation to the payment.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 572, by Senator Seward, Senate Print 4372A, an act to amend Chapter 630 of the Laws -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number

574, by Senator Maziarz, Senate Print 4714, an act authorizing certain housing authorities.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

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

SENATOR MAZIARZ: Thank you, Mr. President. Just to briefly explain my vote.

This legislation will allow the Housing Authority in the City of North Tonawanda, in Middletown, to sell those housing projects to a private sector company.

Right now there are, of the 250 units in the City of North Tonawanda Housing Authority, there are approximately one-third that are vacant and beyond -- or in a severe state of disrepair, Mr. President. This legislation will allow these apartments to be completely renovated and provide housing for low-income residents of North Tonawanda and

Niagara County.

Thank you, Mr. President. I vote in the affirmative.

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

Announce the results.

THE SECRETARY: Ayes, 46.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 599, by Senator Rath, Senate Print 4159, an act to amend the General Municipal Law and the State Finance Law, in relation to salary deductions.

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

601, by Senator McGee, Senate Print 4339 -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 606, by Senator Rath, Senate Print 5022, an act to amend the Volunteer Firefighters Benefit Law, in relation to death benefits.

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 618, by Senator Nozzolio, Senate Print 2124, an act to amend the Judiciary Law, in relation to establishing.

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 619, by Senator Seward, Senate Print 2516, an act to amend the Judiciary Law, in relation to increasing.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2002.

SENATOR DOLLINGER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 620, by Senator Volker, Senate Print 3315, an act to amend the Judiciary Law and others, in

relation to providing.

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, 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 624, by Senator Johnson, Senate Print 5113, an act to amend the Judiciary Law, in relation to increasing.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 3. This act shall take effect January 1, 2002.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 47.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 633, by Senator Hannon, Senate Print 4391, an act to amend Chapter 884 of the Laws of 1990.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 711, by Senator LaValle, Senate Print 3017, an act to amend the Education Law, in relation to mandatory continuing education.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect January 1, 2002.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 720, by Senator LaValle, Senate Print 4287, an

act to amend the Education Law, in relation to the inclusion.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 750, by Member of the Assembly Pheffer, Assembly Print Number 5227, an act to amend the General Business Law, in relation to reflective gear.

SENATOR HEVESI: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 762, by Senator Balboni, Senate Print 3024, an act authorizing the assessor of the County of Nassau.

SENATOR DOLLINGER: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 766, by Senator Skelos, Senate Print -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 781, by Senator Larkin, Senate Print 2382, an act to amend the Family Court Act and the Judiciary Law, in relation to providing.

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, 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 783, by Member of the Assembly Weinstein, Assembly Print Number 7925, an act to amend the Court of Claims Act, in relation to notices.

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, 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 784, by Senator Lack, Senate Print 4784A, an act to amend Chapter 231 of the Laws of 1998.

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, 48.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 792, by Member of the Assembly Kaufman, Assembly Print Number 1644, an act to amend the Public Health Law and the State Finance

Law, in relation to statewide planning.

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 815, by Senator Alesi, Senate Print 2190A, an act to amend the State Administrative Procedure Act, in relation to adjudicatory proceedings.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. This act shall take effect on the 180th day.

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 821, by Senator Marchi, Senate Print 3832, an act to amend the Not-for-Profit Corporation Law, in relation to Supreme Court applications.

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 837, by Senator McGee, Senate Print -

SENATOR SKELOS: Lay it aside for the day.

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

THE SECRETARY: Calendar Number 858, by Senator Trunzo, Senate Print 4669, an act to amend the Vehicle and Traffic Law, in

relation to conforming.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 859, by Senator Trunzo, Senate Print 4673, an act to amend the Highway Law and the Public Authorities Law, in relation to transportation.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 6. 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 865, by Senator Trunzo, Senate Print 5126, an act to amend the Public Authorities Law, in relation to procurements.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 880, by Senator Kuhl, Senate Print 4154, an act to amend the Education Law, in relation to the provision.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 18. This act shall take effect on the first day of September.

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 885, by Senator Fuschillo, Senate Print 4992A, an act to authorize payment of transportation.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 898, by Member of the Assembly Tocci, Assembly Print Number 2367B, an act to authorize the State of New York, acting through the Office of General Services, to transfer and convey.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 915, by Senator Meier, Senate Print 4094A, an act to amend the Social Services Law, in relation to increasing.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 5. This act shall take effect December 31, 2001.

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 931, by Senator Trunzo, Senate Print 1564A, an act to amend the Education Law, in relation to scholarships.

ACTING PRESIDENT MEIER: Read the last section.

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

August.

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 942, by the Assembly Committee on Rules, Assembly Print Number 8477, an act to amend the Education Law, in relation to mandatory continuing competency hours.

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 985, by Senator Skelos, Senate Print 85, an act to amend the Civil Rights Law, in relation

to requiring.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect in 60 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 996, by Senator Volker, Senate Print 5297, an act to amend the Public Authorities Law, in relation to the changing, fixing and collecting.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 50.

ACTING PRESIDENT MEIER: The bill

is passed.

THE SECRETARY: Calendar Number 997, by Senator Johnson, Senate Print 5299A, an act to amend the Vehicle and Traffic Law, in relation to the rights.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 7. 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, 50.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 998, by Senator LaValle, Senate Print 5322, an act to amend the Town Law, in relation to abandoned cemeteries.

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 Dollinger, to explain his vote.

SENATOR DOLLINGER: Thank you, Mr. President, just briefly.

I'm going to vote in favor of this bill from Senator LaValle that deals with the transfer of abandoned cemeteries from towns to villages.

But I think that we ought to take a further look, Senator LaValle, at the whole look of abandoned small cemeteries that are dotted throughout upstate New York, oftentimes in the hearts of cities, in the hearts of suburban-urban communities that were founded in the early part of the last century as Western New York was developed.

They're now oftentimes located in residential neighborhoods. They have oftentimes been difficult to maintain because they're relatively small. I have two of them in my district, one on Congress Avenue in Rochester, right in the heart of the city, and one called the Brighton Cemetery, which is now

right next to a major highway and located in almost an entirely residential area.

All of these cemeteries -- in some cases they're owned by small, not-for-profit groups, in others they're maintained by cities or towns -- but because they're spread out and they're relatively small, they're very difficult to maintain.

The people buried in them, the treasure of our history in Western New York is oftentimes buried with them. And it seems to me that this is a good bill which calls attention to those cemeteries.

And my hope is that we'll work on a bigger bill that will work to allow the State of New York, through funding or other mechanisms, to provide for adequate maintenance and operation of these small, abandoned or small, still used, but nonetheless well out of the -- perhaps located in the wrong place as our urban communities grew up.

So I'm going to vote in favor, and I hope we'll do something more in this area in the future.

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

The Secretary will announce the results.

Oh, I'm sorry. Senator Oppenheimer. I apologize.

SENATOR OPPENHEIMER: Thank you.

This is a valuable bill, because we have many small cemeteries in our villages, and the villages want to take care of them, but it's a town responsibility by the Constitution. So now we will be able to take care of these small cemeteries. The town was large and did not pay attention to them, so it will be helpful to us.

So I'm voting in favor.

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

The Secretary will announce the results.

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number

999, by Senator Balboni, Senate Print 53 -

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

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

THE SECRETARY: Calendar Number 1001, by Senator Johnson, Senate Print 1534, an act to amend the Penal Law, in relation to criminal use of public records.

SENATOR HEVESI: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1014, by Senator Volker, Senate Print 2197, an act to amend the Education Law, in relation to certificates.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1021, by Senator Alesi, Senate Print 801, 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, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1028, by Senator Rath, Senate Print 1452, an act to amend the General Business Law, in relation to the regulation.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay it aside.

ACTING PRESIDENT MEIER: Lay the

bill aside.

THE SECRETARY: Calendar Number 1029, by Senator Padavan, Senate Print 1636, an act to amend the Vehicle and Traffic Law, in relation to prohibiting.

ACTING PRESIDENT MEIER: Read the last section.

SENATOR PATERSON: Lay that aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1031, by Senator Stachowski, Senate Print 2558, an act to amend the General Municipal Law, in relation to notification.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1032, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number 4952A, an act to authorize the Village of Pelham.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1033, substituted earlier today by Member of the Assembly Paulin, Assembly Print Number 4953, an act to reopen the special retirement plan available.

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

Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1034, by Senator Lack, Senate Print 3213, an act to provide for the transfer of retirement service credit.

ACTING PRESIDENT MEIER: 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, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1035, by Senator Seward, Senate Print 3768A, an act to amend the Insurance Law, in relation

to authorizing.

ACTING PRESIDENT MEIER: 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, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1036, by Senator Velella, Senate Print 4028, an act to amend the Education Law, in relation to providing.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1037, by Senator Wright, Senate Print 4030, an act to amend the General Municipal Law, in relation to authorizing.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This act shall take effect 180 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes -

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1038, by Senator Trunzo, Senate Print 4597, an act to amend the Vehicle and Traffic Law, in relation to period of validity.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 51.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1039, by Senator Farley, Senate Print 4631, an act to enact the Privacy of Financial Information Act.

SENATOR PATERSON: Lay it aside, please.

ACTING PRESIDENT MEIER: Lay the bill aside.

THE SECRETARY: Calendar Number 1040, by Senator Lack, Senate Print 4726B, an act to authorize the Town of Huntington to discontinue.

ACTING PRESIDENT MEIER: There is 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, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1041, by Senator Marcellino, Senate Print 4754, an act to amend the Navigation Law, in relation to use of tow-chains.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1044, by Senator Bonacic, Senate Print 5161, an act to amend the Public Authorities Law, in relation to indemnification.

ACTING PRESIDENT MEIER: Read the last section.

THE SECRETARY: Section 2. This

act shall take effect immediately.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1046, by Senator Trunzo, Senate Print 5261, an act to amend the Highway Law, in relation to the limitation.

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

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 52.

ACTING PRESIDENT MEIER: The bill is passed.

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 504, by Senator Morahan, Senate Print 2791A, an act in relation to permitting.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Morahan, an explanation has been requested of Calendar 504 by Senator Paterson.

SENATOR MORAHAN: Thank you, Mr. President.

This is a small bill for a small congregation in the County of Rockland who, through no fault of their own, missed the filing date because of the purchase date of the property. And this would allow them to file for the appropriate tax-exemption form and allow that the Town of Ramapo accept that form and that application.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor would yield.

ACTING PRESIDENT MEIER: Senator

Morahan, do you yield for a question?

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Senator, do you know when this property actually closed, the date of the close?

SENATOR MORAHAN: No, I don't. I don't think that's relevant. I think they missed the date, and I think that's what's important.

SENATOR DOLLINGER: Through you, Mr. President. Isn't it true, Senator Morahan, that they actually missed three dates? Because this is a property tax exemption that includes '99, 2000, and 2001.

SENATOR MORAHAN: That's correct.

SENATOR DOLLINGER: That's three years they missed the date to file for a property tax exemption.

SENATOR MORAHAN: That's correct.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Morahan would continue to yield.

ACTING PRESIDENT MEIER: Senator

Morahan, do you continue to yield?

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: As you know, Senator, I've voted against these bills, railed against them, and done all kinds of things against them.

But I'm sort of intrigued. What happened when they started getting property tax bills on a property they thought they didn't have to pay taxes on? They got one in '99, they got one in 2000, they got one in 2001. What if anything did they do?

SENATOR MORAHAN: Well, I can't really attest to what they did or did not do. I know what had -- what they did not do is file the applications on time.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will continue to yield.

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

SENATOR MORAHAN: Yes, I do.

ACTING PRESIDENT MEIER: The

sponsor yields.

SENATOR DOLLINGER: Through you, Mr. President. Do you have any explanation, any justification why they didn't file on time for three consecutive years?

SENATOR MORAHAN: I don't know that it's my job to do the justification, other than to respond to a need in my district. I believe that the town is in accord with this bill.

This bill came from the Assembly, the Assembly sponsor has put this through. And at his request, I'm going to put it through the Senate.

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

I want to thank Senator Morahan for his courtesy in answering my questions. But we continue to do these bills as the major assessing entity in New York State. We're now a superassessing body. We've got the ability to give -- to wipe out tax assessments. We're doing it with greater and greater frequency. It's a problem that somehow the contagion of doing it has spread from Nassau County into

Suffolk County into New York City. It's in Rockland County. My guess is we will just - might as well call the session to the end and we'll just reconvene as the major assessment board of review in New York State.

In this case, with all due respect to Senator Morahan, we don't even know why a not-for-profit organization that did not have to pay real property taxes for three consecutive years got a bill and did nothing, and didn't bother to file for the property tax exemption. They not only missed one year, they missed the second year. And it appears, based on the sponsor's memo, that they missed the third year.

So what we've done is we've said to these not-for-profit groups that are entitled not to pay real property taxes, we have said to them: It's okay, forget about it. Just call your state legislator, and you'll get it done. Don't worry about filing your papers for a property tax exemption in your own home community.

We're creating, gentlemen, a bigger and bigger loophole. We are creating more and

more work for ourselves, as we print these bills, as we go through this process, because we don't have a statewide bill that would obviate this problem. And what we're doing instead is encouraging everybody to come to us rather than do the responsible thing, which is file for their property tax exemption when they're entitled to it.

Mr. President, I have a great deal of sympathy for this congregation. They shouldn't have to pay property taxes. But we shouldn't have a system in which their only appeal is to this body and the politics of this body. The better thing to do is to pass a statewide bill that allows all these local communities to accept property tax exemptions on a partial basis. Or if, as in this case, Senator Morahan, they miss a couple of years, let the Town of Ramapo grant them the exemption without having to come to this body.

Pass a statewide bill that gives local communities the ability to approve these exemptions. That's the better way to do it.

I'm going to continue to vote against them, whether they come from Rockland

or Nassau or Suffolk or New York City, some sponsored by my colleagues from this side of the aisle. I'm going to vote against them until we solve this problem with a statewide bill. I vote no, Mr. President.

ACTING PRESIDENT MEIER: Well, actually, we're not on a roll call. But we'll let you vote later.

Senator Paterson.

SENATOR PATERSON: Mr. President, obviously I sit here next to Senator Dollinger and I hear his point of view on daily basis about these bills. And as he continues to vote against them, I continue to vote for them.

And the reason I vote for them is that I feel that there's a good-faith effort that's being made. And obviously sometimes these congregations don't have the skilled professionals there that would know when the deadlines were, and they miss the deadlines.

But this case, which I am going to vote for, is quite disturbing because it really is an example of what Senator Dollinger has been saying for a long period of time. It

almost appears that this congregation missed deadlines, got bills passed, and then went ahead and missed the deadlines again.

And in those situations, I think the Town of Ramapo is better able to answer the questions that frankly Senator Morahan couldn't answer, which relates to why this is actually happening or, when it does happen, is the privilege now being taken for granted.

That's the real question: Is the privilege that we grant these entities now being taken for granted? You just call up your local State Senator, they put it in, and relying on good faith between colleagues, we pass these bills.

I think that we can't really make the right assessments. The town should make those assessments. In those situations where there's a ministerial problem, we should go ahead and vote for the bills. But in this situation -- and the only reason I'm voting for the bill is I don't know what the situation is, because there really was no clarification.

But I don't know. I'm going to

have to think it over. And it's taking a lot of time. It's taking a lot of time because every time the bills come up, Senator Dollinger speaks on the bills.

But the issue is that it's a very good point, and it's one I think we have to start taking a look at. We are not the supervening assessment board that we're turning into.

ACTING PRESIDENT MEIER: Senator Morahan.

SENATOR MORAHAN: On the bill, Mr. President.

Let me just explain to my colleagues that, yes, maybe there is statewide legislation that would apply to all entities, all assessors need it. But until that time, this is the remedy now allowed to us.

I am not judgmental on why someone did something, why they did not do something. I do know that this is a small congregation. It's in dire straits. I don't even know if they paid the tax bill. They obviously did not pay the tax bill. But that's why we have a legislature that can review these situations

and bring relief when we believe it's appropriate.

Thank you, Mr. President. Thank you, my colleagues.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Mr. President, on the bill.

I'm going to vote in favor of the bill, although I also believe there should be statewide regulations that are adhered to. But we should not penalize one congregation or one church or one mosque in the state of New York until we adopt these statewide regulations.

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.)

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

SENATOR DOLLINGER: My sentiments on this bill are well-known. I'll be recorded in the negative, Mr. President.

I'd just like to point out to Senator Morahan that the clock that you talk about, until we pass a statewide bill, I would suggest, Senator, you and your 35 Republican colleagues, you control the clock. You have the ability to set the hands on that clock. You can wind it up.

We could do a bill for the statewide application -- I assume, with the speed that the Majority is capable of doing almost everything else in this house, that bill could be done by, oh, probably 2:15 this afternoon, like that (snapping fingers). I've seen and you've seen, Senator Morahan, when the Majority wants it in this house, it goes.

I would just suggest to you that the clock of getting a statewide bill to allow these communities to handle their own delinquency problems such as this one, the way to do it is to just get that little clock

ticking on the other side of the aisle here, and let's get that clock done. And who knows, maybe by June 20th, a reasonable time from now, we could do a statewide bill. All these cases would be taken care of without our intervention and wasting our time.

I understand why you did it, Senator. I've said it to every Senator: This is the right thing for you to do as an advocate for your community. But the better thing to do is pass a statewide bill and obviate the need for our intervention in the future.

I vote no.

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

The Secretary will announce the results.

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

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 526, by Senator Leibell, Senate Print 2366, an

act to amend the Civil Service Law, in relation to the payment.

SENATOR PATERSON: Explanation.

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

SENATOR LEIBELL: Mr. President, this bill amends Section 130 of the Civil Service Law, providing for payment of a hazardous-duty differential for certain employees of the Department of Transportation.

Specifically, the bill would allow employees of the DOT who are working in situations of unavoidable, clear and direct risk to their safety and health to receive a pay differential. The bill would authorize such payments subject to approval of the Division of Budget.

Presently, DOT employees are not entitled to hazardous-duty differential, despite the fact that they are routinely working in very dangerous situations on highly traveled bridges and roadways across New York State.

The maintenance and operations

functions that these employees perform are vital to the state's infrastructure and economy and essential to the safety of our drivers and passengers throughout New York.

In the past, this bill has passed both houses.

ACTING PRESIDENT MEIER: Senator Paterson.

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

SENATOR LEIBELL: Yes, Senator.

SENATOR PATERSON: Senator, we passed this bill in 1999 unanimously.

SENATOR LEIBELL: Yes, we did.

SENATOR PATERSON: The identical bill died in committee in 2000. And I voted for the bill. I agree completely.

In 1999, though, the Governor vetoed the bill. And I just wanted to ask you, has that issue been reconciled?

SENATOR LEIBELL: At the time of the Governor's veto, his veto message pointed out the issue of collective bargaining and that this would be something that would be more appropriate for collective bargaining.

Those collective bargaining negotiations were completed, and there are none ongoing now.

SENATOR PATERSON: Mr. President, on the bill.

ACTING PRESIDENT MEIER: Senator Paterson, on the bill.

SENATOR PATERSON: In spite of the fact that we may wind up with the same problem with the Governor's office that we had two years ago, I'm going to vote for the bill. I think it's really, actually quite a good idea. And I hope the Governor's office will reconsider.

ACTING PRESIDENT MEIER: Senator Dollinger.

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

ACTING PRESIDENT MEIER: Senator Leibell, do you yield?

SENATOR LEIBELL: Yes, Mr. President.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: This bill

authorizes a hazardous-duty pay differential if the Division of Budget, the director of the Division of Budget authorizes it; is that correct?

SENATOR LEIBELL: Authorizes the payment.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will continue to yield.

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

SENATOR LEIBELL: Yes, I do.

ACTING PRESIDENT MEIER: The sponsor yields.

SENATOR DOLLINGER: Does the bill set a restriction on what that hazardous-duty pay level would be? This would be a premium paid to those who are in high-risk occupations such as working on a bridge?

SENATOR LEIBELL: That would be established under other sections of the Civil Service Law.

SENATOR DOLLINGER: Through you, Mr. President, if the sponsor will continue to yield.

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

I believe he yields.

SENATOR DOLLINGER: Would the question of how much the hazardous-duty pay differential is, would that determination be subject to collective bargaining between the employees and the Department of Transportation?

SENATOR LEIBELL: I'm sorry, I didn't hear, Senator. Could you repeat your question?

SENATOR DOLLINGER: Through you, Mr. President, I'm just trying to establish how the differential is created. Is that differential created by collective bargaining between the state and its employees, or is that set unilaterally by the Division of Budget? Is there anything in this statute that determines that?

SENATOR LEIBELL: The statute would provide -- or it does provide, the law does provide for that differential already. The amount of.

SENATOR DOLLINGER: Through you,

Mr. President, if the sponsor will continue to yield.

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

SENATOR LEIBELL: Yes.

SENATOR DOLLINGER: Will this provision in any way affect our contracts for the reconstruction of those bridges and roads in the sense that it would create a hazardous-duty premium for those private workers who are working on a construction project right next to their DOT colleagues?

SENATOR LEIBELL: No, this is only for state -- public employees of DOT.

SENATOR DOLLINGER: Okay. Thank you, Mr. President.

I'll vote in favor of this bill again. I was just intrigued by the notion that the director of the Division of Budget is going to be controlling the terms under which the pay differential is granted.

I think hazardous-duty pay is not an unfair thing to grant to our employees. And I'm just concerned that by leaving the approval in the Division of Budget that it may

be more difficult to actually get there. Because the Division of Budget, looking closely at cost, is going to oftentimes, I think, have a tendency to deny hazardous-duty pay.

And the only other suggestion I would make, Mr. President, if we someday get this bill into law, is that for drafting, what I would simply do is instead of starting a sentence with the word "except," I would have put a comma after the subdivision, drop to lower case the "except," and have the sentence all run into one, rather than start a sentence that begins with the word "except." That's in the second page of the bill.

I just think for drafting purposes and inclusion in the statutes it would be grammatically correct to do it that way.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Do any other Senators wish to speak on the bill?

If not, read the last section.

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

ACTING PRESIDENT LIBOUS: Call

the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT LIBOUS: The bill is passed.

SENATOR MARCELLINO: Mr. President.

ACTING PRESIDENT LIBOUS: Senator Marcellino.

SENATOR MARCELLINO: There will be an immediate meeting of the Rules Committee in the Senate Majority Conference Room, 332.

ACTING PRESIDENT LIBOUS: There will be an immediate meeting of the Rules Committee in the Majority Conference Room, 332.

The Secretary will read.

THE SECRETARY: Calendar Number 633, by Senator Hannon, Senate Print 4391, an act to amend Chapter 884 of the Laws of 1990.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT LIBOUS: Senator Hannon, an explanation is asked for, sir.

SENATOR HANNON: This bill would continue the provisions in statute that we

have that authorizes the payment of monies to diagnostic and treatment centers and certified home health agencies, such monies being the bad debt and charity care payments which come into play when these entities take care of those who are not covered by insurance nor any of the state programs for providing health care.

ACTING PRESIDENT LIBOUS: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. Will the sponsor yield to just a couple of quick questions?

ACTING PRESIDENT LIBOUS: Senator Hannon, will you yield to Senator Dollinger?

SENATOR HANNON: I will be happy to yield one question at a time, Mr. President.

ACTING PRESIDENT LIBOUS: The Senator will yield to one question at a time, sir.

SENATOR DOLLINGER: I shall deliver them one question at a time, Mr. President.

My first question, Senator, is

we've done this extender I think every year since 1990, simply for a year's period. Is this something that is under consideration - perhaps budget talks are premature at this point -- but to extend this for a longer period of time, since it looks as though we've got a pretty good idea that this is working and seems to be the right thing to do?

SENATOR HANNON: Yes and no. If life had continued as it were since the initial part of this, it might have been the case.

But the whole spectrum of health care has changed a great deal. We are now - we've built a number of ambulatory centers. We've built a number of diagnostic and treatment centers. The President of the United States has proposed putting $135 million into the federally qualified health care centers, which would expand nationally by 1200, some of which I'm sure, of course, would come here.

So we have a changing set of facts and foundations upon which we're building. We do have a finite system for collecting the

monies that go into the bad debt and charity care pool. This is something we wish we had more monies available. But significantly, it's a couple of billion dollars a year. So monies in here for the diagnostic and treatment centers take away from the hospitals.

What we have to do is we have to look at this and measure this every year. And frankly, it's past due that we have a budget, because it's this type of provision -- care for the poor, care for the people who don't have insurance -- that is in jeopardy. Just like the fact that children's insurance is sunsetting at the end of this month.

We are having real lives, real concerns out there that ought to be addressed. And that's why the budget is -- it's not premature, Senator, you're wrong. It's past due.

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

SENATOR HANNON: Yes.

ACTING PRESIDENT LIBOUS: The

sponsor will continue to yield, Senator Dollinger.

SENATOR DOLLINGER: This is a prospective question, Mr. Chairman.

The recent announcement of the go-ahead from the federal government to implement Family Health Plus, will that eventually affect the amount that's paid out under this plan? Is it your expectation that the bad debt and charity care allowances to the D&Ts and other organizations would be reduced because of the beneficial impact or what we hope, I think, will be the beneficial impact of the Family Health Plus program?

SENATOR HANNON: Directly, Senator, they have nothing to do with each other. They're two entirely separate programs.

Indirectly, to the extent that you have revenue streams that support either, and if we were to get into a big downturn or we were to get into a heavy demand upon the recipients, well, perhaps then the money that goes into the hospital system through the HCRA Reform Act or the money that comes from the

tobacco monies or the money that comes from the General Fund, well, that might all get squeezed and we'd have to make a set of priorities.

But that would be indirect. It would be remote. As I said at the beginning, it's two separate programs.

SENATOR DOLLINGER: Okay.

Through you, Mr. President, I'm going to vote in favor of the bill. I want to thank the chairman of the Health Committee -

ACTING PRESIDENT LIBOUS: Senator Dollinger, are you speaking on the bill?

SENATOR DOLLINGER: I am, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Dollinger will speak on the bill.

SENATOR DOLLINGER: I think the chairman of the Health Committee is correct when he talks about the fluidity of our reimbursement system, the effects of changes at the federal level, the implementation of Family Health Plus, all of which are really the harbingers of a different health care environment. As we see the results of the

HCRA changes as well, some of which are felt right in my own community.

But I think this is the right thing to do. And I agree -- actually, although I'm not big on year-to-year extenders, I'll agree with the chairman of the Committee on Health that in this area we should keep a very close eye on how we're handling these pools of funds and how they're going out to the centers and various other innovations in the health care system that get us away from our traditional hospital system.

So I think this is the right thing to do, and I think we should do it just for a year.

ACTING PRESIDENT LIBOUS: Any other Senators wish to speak on the bill?

If not, read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 54.

ACTING PRESIDENT LIBOUS: The

bill is passed.

THE SECRETARY: Calendar Number 720, by Senator LaValle, Senate Print 4287, an act to amend the Education Law, in relation to inclusion.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT LIBOUS: Senator LaValle, an explanation is being asked for.

SENATOR LAVALLE: Thank you, Mr. President.

This legislation would provide that the State University, the City University, and the Board of Regents would, upon the adoption of any resolution, creation of any regulation or the amendment of any regulation, would provide, prior to passage, a fiscal note that would be attached to the resolution or the regulatory change that is being made; that the fiscal note and the amount that is being provided be also concurred by the Division of the Budget that that amount is an accurate figure.

All too many times we have seen, as members, that the Board of Regents, the State University or City University have executed

policy and we in this body, in the Assembly, and the Governor have been left with the bill. It is not that in almost every instance that this body as a matter of policy would differ with any of those bodies. But we have many times found it difficult to find the dollars to implement that particular policy.

So I believe in the same way that we here attach fiscal notes and understand the fiscal implications to the policies that we are proposing, the three important bodies that are included in this bill -- State University, City University, and the Board of Regents - should also be responsible and at least go through a process that the public and we in the Legislature are fully aware of what the fiscal implications would be in the policies that are adopted.

ACTING PRESIDENT LIBOUS: Senator Montgomery.

SENATOR MONTGOMERY: Yes, Mr. President, if Senator LaValle would yield for a question.

SENATOR LAVALLE: Yes.

ACTING PRESIDENT LIBOUS: Senator

LaValle will yield, Senator.

SENATOR MONTGOMERY: Thank you.

Senator LaValle -- through you, Mr. President -- I know that the most recent set of regulations that the Board of Regents has changed were related to standards, academic standards for high school graduation and for all of the grades, for course content required for students in all of the grades, in an attempt to standardize the educational outcome in schools and districts throughout the state.

Would that -- if your bill had been in place at that time, would it have been required for them to give us a fiscal analysis of what it would cost to raise the standards of education in the state?

SENATOR LAVALLE: Yes, Senator, I think that is a very good example that we can use to provide our colleagues with a glaring example of a policy that was created, a bill that was then handed to us and the local school districts. In an amount that, at this time, I as a legislator couldn't tell you what the exact amount is, because it has an open check that is being given to us and the

taxpayers that have to pay the bill.

Now, here is a good example in a policy that most everyone can agree is a good one in terms of increasing the standards. But I also think we need to know what are the fiscal implications, fiscal implications for the state and then the implications for the local school districts.

The Board of Regents is not alone, certainly, in adopting the policy where we have no idea what the fiscal impact will be on our own budget and future budgets and the impacts locally. But it's a great example that you have provided us with.

ACTING PRESIDENT LIBOUS: Senator Montgomery.

SENATOR MONTGOMERY: Through you, if I could ask another question.

ACTING PRESIDENT LIBOUS: Senator LaValle, will you continue to yield?

SENATOR LAVALLE: Yes, I will.

ACTING PRESIDENT LIBOUS: The Senator will continue to yield.

SENATOR MONTGOMERY: In that case, Senator LaValle, if your bill is enacted

into law, what does it mean if and when we receive a fiscal note of the implications? What then do you think should happen as it relates to our role vis-a-vis the budget?

Should we then reject those regulations? Are we as a Legislature in a position to do that if we decide that it costs too much to raise the standards of education in the state or other things?

SENATOR LAVALLE: Senator Montgomery, that's another excellent, excellent question.

What this legislation would do, it is my hope -- and something that we have talked about -- is to bring an interaction between ourselves and the Board of Regents, the State University, and City University, so that a dialogue can happen.

Now, the Board of Regents has the authority to promulgate those regulations. But if you had an honest and open discussion, we would be talking about the fiscal implications and whether those implications could be met within one budget year, two, three, or four, or whether we would have to

reprioritize some of our policies that begin and are promulgated by we in the Legislature.

So what it really does is to provide for everyone -- it quantifies, it quantifies for the first time, before the rules are promulgated or a resolution is passed, what the dollar implications are.

And before that happens, we would be in a position to have a discussion with the Board of Regents, with the State University or the City University to say, you know, We're not sure that we can handle that in one budget year, we might have to spread that out, but we fully concur with your policy.

Now, take the opposite end. We disagree. We say: You shouldn't do it. They have the full authority to continue to promulgate those resolutions and pass them.

So we can then say, later on, Well, we warned the Regents, we warned the State University, we warned the City University that we could not provide the adequate dollars in the budget to implement those policies.

That would be basically it, Senator.

SENATOR MONTGOMERY: All right. Thank you.

Mr. President, briefly on this bill.

ACTING PRESIDENT LIBOUS: Senator Montgomery to speak on the bill.

SENATOR MONTGOMERY: Yes. I just am a little -- I'm a lot concerned, not a little, that we are attempting to bring a political leverage into the decision-making of State Education around policies that relate to what we do for students in our state.

And once we have had discussions with the Commissioner and the Board of Regents during the budget hearings, which we do annually -- at one point, in the good old days, we also used to bring the Commissioner into the committee meetings and they would brief us on what their plans, what their needs were, and ways in which we could work with them to accomplish those. That hasn't happened in a few years, unfortunately, but it is available to us.

So I think there are a number of opportunities for us to interact with State

Education as legislators, to determine where they think our system should be going, what their needs are, what we as legislators need to be doing in order to make it possible for us to maintain the highest possible educational system.

So I don't see this bill as being necessary to engage and to have that process continue. I do feel, however, that it gives us a sense and it puts in law that the State Ed must come to us almost hat in hand to say, We think this needs to happen in higher education, in elementary education, for high school students, and we would like to do this, it's going to cost X, whatever it might cost, and would you please, Legislature, agree.

I think that is not the way that we want to see our educational system function. There is a reason why we try to make it to some extent possible for them to make independent decisions absent the political process, because it certainly might limit the kinds of vision and the kinds of new directions that the Education Department might want to take. It might cost money, and if

they think that it's going to be rejected based on the financial aspect, they may not do it.

And so I'm certainly going to vote against this legislation. And I suggest that my colleagues join me in rejecting this notion, because I think it flies in the face of the principle of an independent Department of Education which is able to make decisions based on the educational advantage and advancement of students and not based on the politics of this Legislature and/or the Governor.

So I'm going to be voting no on this, Mr. President. Thank you.

ACTING PRESIDENT LIBOUS: Are there any other Senators who wish to speak on the bill?

If not, read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 53. Nays,

2. Senators Hassell-Thompson and Montgomery recorded in the negative.

ACTING PRESIDENT LIBOUS: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 750, by Member of the Assembly Pheffer, Assembly Print Number 5227, an act to amend the General Business Law, in relation to reflective gear.

SENATOR HEVESI: Explanation.

ACTING PRESIDENT LIBOUS: An explanation is asked for, Senator Fuschillo.

SENATOR FUSCHILLO: Thank you, Mr. President.

This bill will offer technical amendments to a law that we passed last year that I sponsored relating to in-line skates.

More specifically, the Assembly sponsor, Audrey Pheffer -- and this bill has already passed the Assembly -- has been working very closely with the International In-Line Skating Association, and they have been meeting with industry experts in an attempt to prepare to meet the state

guidelines.

More specifically, they have requested an exemption of highly skilled or - skates that are used by highly skilled or expert skaters; more specifically, speed skates and hockey skates, because such skates are used, as they stated, in a more controlled environment.

Also, in an effort to create industry-wide standing with the reflective material, they have requested a postponement of the effective date, which this would put it out for another year.

Furthermore, they have been working with the Commissioner of Motor Vehicles' office in developing the standards for this. And because of some regulatory requirements from the Governor's office, it would take more than the prescribed date last year for the effectiveness.

ACTING PRESIDENT LIBOUS: Senator Hevesi, why do you rise?

SENATOR HEVESI: Thank you, Mr. President. Will the sponsor please yield?

ACTING PRESIDENT LIBOUS: Will

the sponsor yield?

SENATOR FUSCHILLO: Yes, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Hevesi, he will yield.

SENATOR HEVESI: Thank you.

Mr. President, I very much appreciate and I believe I understand the purpose of this bill. I just have a specific question, and maybe Senator Fuschillo can relieve my fears.

The section of law that this amends -- and I'll just read it, beginning on line 18: "Each pair of in-line skates which is manufactured or assembled by a person, firm, corporation or other legal entity for special use by highly skilled or expert skaters or for sale or distribution through custom orders" -- and now the new language, "such as in-line hockey skates and in-line speed skates."

My question here is, implicit in that is that anyone who uses in-line hockey skates or in-line speed skates is an expert or a highly skilled skater. And I don't believe

that there's any preclusion on an individual who is not an expert or highly skilled from going and buying these skates and using them wherever they like.

So I'm concerned that we have reduced the protective mechanisms that this law was intended to provide by exempting them, even though there may be a logical argument to having that exemption only when the individuals partake in their activities in the controlled environment that you cite.

So let me just open that up to you for comment.

SENATOR FUSCHILLO: That was one of my concerns -- through you, Mr. President -- Senator, when I received the amendment from Assemblywoman Pheffer.

But I had spoken to the industry experts, and specifically a counsel that represents the International In-Line Skating Association, asking about that specific question. And he had stated to me that the majority of this -- upwards of 90 percent who purchase these skates are done in an organization-sports-like fashion, where the

environment is a much more controlled environment, rather than on the streets themselves.

SENATOR HEVESI: Mr. President, would the sponsor continue to yield?

ACTING PRESIDENT LIBOUS: Senator Fuschillo, will you continue to yield?

SENATOR FUSCHILLO: Yes, Mr. President, I will.

ACTING PRESIDENT LIBOUS: Yes, he will.

SENATOR HEVESI: Thanks.

Notwithstanding that, the kids who buy them, even if they're provided through an organized sports activity or a team and then go take the skates and use them out on the street -- and then they won't have the brakes or the reflective gear, which we have already said is a good idea for them. Isn't that a little bit dangerous?

SENATOR FUSCHILLO: Well, there is a warning placed on the skates, Senator - through you, Mr. President -- stating exactly that. But the hockey skates and the speed skates are not intended for the general

purpose on the streets. They're not designed for that, specifically through the wear and tear on them. The normal-use in-line skates are designed differently.

And the hockey skates -- again, Mr. President, through you -- Senator Hevesi, are designed specifically for a certain type of platform that is used for roller hockey.

SENATOR HEVESI: Mr. President, would the sponsor continue to yield?

ACTING PRESIDENT LIBOUS: Senator Fuschillo, will you continue to yield, sir?

SENATOR FUSCHILLO: Yes, Mr. President. I'd be delighted to yield.

ACTING PRESIDENT LIBOUS: Senator Hevesi, he will continue to yield for you.

SENATOR HEVESI: Thank you.

On the issue of extending the implementation time, is there something that happened in the past year that we were unaware of when this chapter was originally passed that now leads us to require another extension, which obviously is going to delay the implementation of the much-necessary safety pressures provided for in your bill?

SENATOR FUSCHILLO: Well, it's not -- through you, Mr. President, it's not requiring another extension. This is the first one.

Based on the counsel that I spoke to, Senator, who represents the association that I referenced, most of the companies do adhere, have adhered to the law prior to its existence.

In dealing with trying to come up with uniformity throughout the industry, there is a two-year testing process that they are going to try to condense to conform with this, and this extension would allow them.

There are other certain measures through the Governor's Office of Regulatory Evaluation that would necessitate this extension because of time for posting evaluation and comments from the general public, government, and the industry as well.

SENATOR HEVESI: Okay, thank you.

Mr. President, one final question, if the sponsor would yield, please.

ACTING PRESIDENT LIBOUS: Will you yield for another question?

SENATOR FUSCHILLO: Yes, Mr. President.

ACTING PRESIDENT LIBOUS: The sponsor yields.

SENATOR HEVESI: Thank you.

Just on the initial point that we had been discussing, is there anything in law that would prevent a child from taking the in-line hockey skates or speed skates which don't -- which will not have the reflective gear or the brakes and using them outside of the controlled environment that we were talking about?

SENATOR FUSCHILLO: No.

SENATOR HEVESI: There's not. Okay, thank you.

Mr. President, on the bill.

ACTING PRESIDENT FARLEY: On the bill.

SENATOR HEVESI: Thank you.

I very much appreciate what Senator Fuschillo and Assemblywoman Pheffer are trying to do. I'm actually going to vote against this bill.

I'm just concerned that there are

going to be kids out there who now will take the skates that we just prevented from having brakes and reflective gear -- even if you can make the argument that it's okay in the controlled and limited circumstances of a supervised hockey game or some course for speed skating with in-line skates, even if that's okay to do without brakes or reflective gear, there's nothing that prevents the kids from taking those skates, even if they were purchased -- as Senator Fuschillo pointed out, 90 percent of them were purchased through some organized sporting venue or activity - nothing prevents them from taking it out on the streets.

And it seems to me that if this was good enough to put in the law for everybody else, for children to use in any circumstance with in-line skates, that kids who go and use the hockey skates and the speed skates outside of the controlled environment we may now place in a little bit of jeopardy. And that's certainly not something that I want to do.

Nor do I believe that anybody who buys or uses in-line speed skates or in-line

hockey skates is by any means highly skilled or an expert. That's a big jump. I don't necessarily agree with that.

So I'm going to be voting against this legislation, and I would hope the sponsors would take another look at this.

Thank you, Mr. President.

ACTING PRESIDENT FARLEY: Any other Senator wish to speak on the bill?

Go ahead, read the last section.

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

ACTING PRESIDENT FARLEY: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT FARLEY: The bill is passed.

THE SECRETARY: Calendar Number 762, by Senator Balboni, Senate Print 3024, an act authorizing the assessor of the County of Nassau.

SENATOR DOLLINGER: Explanation, Mr. President.

ACTING PRESIDENT FARLEY: Explanation, Senator Balboni.

SENATOR BALBONI: Thank you, Mr. President.

This bill would allow the New Hyde Park Fire District to obtain a real property tax exemption refund in the amount of $33,000, approximately, for a piece of property that they purchased in May of 1997.

ACTING PRESIDENT FARLEY: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. Will the sponsor yield to a question?

ACTING PRESIDENT FARLEY: Will the sponsor yield, Senator Balboni?

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

SENATOR DOLLINGER: Senator Balboni, is it your understanding that the New Hyde Park Fire District has continued to get property tax bills from the County of Nassau or other taxing entities from 1997 to 2000 and not either paid them or figured out that they could simply file for a property tax

exemption on the proper date and be absolved of the need to pay those taxes?

SENATOR BALBONI: Mr. President, this particular fire district handles a number of calls. They have probably a higher-than-usual response rate when it comes to motor vehicle accidents, due to some very heavily trafficked intersections.

The reason why I mention that in the context of an answer to the gentleman's question is that many times the work that is done by the fire department is so encompassing that I would hate to say that it was pure malfeasance on behalf of the fire district not to respond in this particular manner.

There are many requirements that fire districts who do not have full-time staff, are voluntary in nature, must respond to. And what we're attempting to do here is support their application for a justifiable tax exemption.

SENATOR DOLLINGER: Through you, Mr. President, if Senator Balboni would continue to yield.

ACTING PRESIDENT FARLEY: Senator

Balboni, do you continue to yield?

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

ACTING PRESIDENT FARLEY: Yes, he does.

SENATOR DOLLINGER: Is this fire district run by a board of commissioners? Is this an independent fire district, or is it a fire district administered by a town board or -

SENATOR BALBONI: This is an independent fire commission.

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

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

ACTING PRESIDENT FARLEY: Yes, he will.

SENATOR DOLLINGER: Do you know what the fire commissioners did when they got a bill from the County of Nassau for -- this is over several years, so I assume the bill is $10,000, $11,000 a year for the last three years. Do you know what they did when they

got that bill?

SENATOR BALBONI: No, I do not.

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

ACTING PRESIDENT FARLEY: On the bill, Senator Dollinger.

SENATOR DOLLINGER: I appreciate Senator Balboni's continuing patience. But since he seems to be the grand czar of property tax exemptions for Nassau County, I always have to sit back and ask him the kinds of questions that the town would ask if they were presented with the power and authority by this Legislature to resolve the question of whether they're entitled to a tax exemption.

There's no question, Senator Balboni, that but for their failure to file for the tax exemption on time, they're entitled to a tax exemption. But what I can't understand is this entity got a bill that they knew they shouldn't have to pay, three years in a row, and apparently did nothing, nothing about it.

Nobody apparently called the County of Nassau and said, You're sending us a bill,

we're tax-exempt, take the bill back. They didn't do that, apparently didn't do that. They didn't sit down and say, Wait a second, why are we getting this bill? Maybe we should file for a property tax exemption, because we're entitled to one. They didn't do that.

Instead, after three years of letting these bills accumulate, they come to their State Senator and say: Oh, by the way, we now understand that these bills can go through the Senate and that you in essence wipe out our account with the County of Nassau.

This is a continuing example of how our intervention is breeding poor practices on the part of things like independent fire districts. When you get a tax bill and you're not required to pay taxes, don't wait until your State Senator can alleviate it for you, go and apply for your property tax exemption. You're entitled to it.

And, number two, Mr. President, let's do a statewide bill, please, if for no other reason than to perhaps get silence in the chamber from this Senator.

I'll vote in the negative.

ACTING PRESIDENT LIBOUS: Any other Senators wish to speak on the bill?

Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

ACTING PRESIDENT LIBOUS: Senator Balboni, to explain his vote.

SENATOR BALBONI: At the risk of adding more noise in the chamber, as Senator Dollinger has discussed, I would just like to point out the fact that Senator Dollinger has been up on his feet on all of these bills the entire session long, with one notable exception. He has the political courage not to argue against the tax exemption bill for Senator Connor. He sat mute during that particular debate.

And I'd just like to say perhaps we should adopt a political correctness standard as well as a standard for applying for tax exemptions in this chamber.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Results.

Oh, Senator Paterson wishes to explain his vote.

SENATOR PATERSON: Mr. President, I'm shocked. I would like to point out that in this chamber yesterday that Senator Dollinger, a man of courage -- in fact, Gary Cooper is the actor I would have used to play Dollinger in "The Dollinger Story" -- got up, and he said on the record -- he's dead? Oh, I'm sorry to hear that -- that he voted against Senator Connor's bill right here last Wednesday. And I thought that was an act of courage.

Incidentally, if any of you would like to provide some office space to Senator Dollinger, he's looking right now.

(Laughter.)

ACTING PRESIDENT LIBOUS: Results.

Senator Dollinger to -

(Groaning.)

SENATOR DOLLINGER: I have to

respond to Senator Balboni.

ACTING PRESIDENT LIBOUS: Senator Dollinger, did you explain your vote once already?

SENATOR DOLLINGER: No, I believe I spoke on the bill.

SENATOR PATERSON: The leader is on the phone.

ACTING PRESIDENT LIBOUS: Senator Dollinger, to explain his vote.

SENATOR DOLLINGER: Senator Balboni is wrong again.

(Laughter.)

ACTING PRESIDENT LIBOUS: Results.

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

ACTING PRESIDENT LIBOUS: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 898, by Member of the Assembly Tocci, Assembly Print Number 2367B, an act to authorize the State of New York.

ACTING PRESIDENT LIBOUS: Read the last section.

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

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55.

ACTING PRESIDENT LIBOUS: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1001, by Senator Johnson, Senate Print 1534, an act to amend the Penal Law, in relation to criminal use.

ACTING PRESIDENT LIBOUS: Read the last section.

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

SENATOR PATERSON: Explanation.

ACTING PRESIDENT LIBOUS: Excuse me. Could we have a little order in the house? There's a little bit of noise out there.

Senator Paterson, did you ask for

an explanation?

SENATOR PATERSON: I certainly did, Mr. President.

SENATOR MARCELLINO: Lay the bill aside temporarily.

ACTING PRESIDENT LIBOUS: We'll lay the bill aside temporarily on Senator Johnson's bill.

THE SECRETARY: Calendar Number 1028, by Senator Rath, Senate Print 1452, an act to amend the General Business Law, in relation to the regulation.

SENATOR PATERSON: Explanation.

ACTING PRESIDENT LIBOUS: An explanation, Senator Rath, is asked for.

SENATOR RATH: Thank you, Mr. President.

This bill has come to be known in some quarters as the "Spam Bill." It is characterized as unsolicited commercial electronic mail, e-mail, unsolicited commercial electronic mail that is not wanted by the person who is receiving it.

And what we're trying to do here is to require the termination of the

transmissions upon the request of the recipient. And there are civil remedies provided for in the noncompliance to the law.

ACTING PRESIDENT LIBOUS: Senator Stachowski.

SENATOR STACHOWSKI: If Senator Rath would yield for a question.

SENATOR RATH: Certainly.

ACTING PRESIDENT LIBOUS: Senator Rath, will you yield?

SENATOR RATH: Surely.

ACTING PRESIDENT LIBOUS: She will yield, Senator.

SENATOR STACHOWSKI: Now, on this spam bill, I have a situation that happened to me on my computer. I want to ask you if it would be covered by this.

A while back, I signed up for the "Do Not Call" program for New York State. And then about a month ago, this was just a couple of months afterwards, I got an e-mail from Bell South -- unsolicited, never asked for it -- and it was a letter from Governor Pataki telling me, Congratulations, you signed up for "Do Not Call."

Would that be considered spam? They dropped a cookie on me. Somebody had to do something like that, in that nature, because we signed up on the Internet, didn't ask for any response, already had a letter from him saying that, you know, you are now registered.

And then I got this e-mail from Bell South that turned out to be another message from the Governor. Kind of like those -- you know, if you're trying to hear why the sign is flashing on the Thruway and you've got to listen to six commercials before you get to what the traffic problem is.

Is this a -- would this be considered spam?

SENATOR RATH: No, Senator Stachowski. I know the item you're speaking about, and there was some question about it.

But this bill is pointing to fraudulent misrepresentation from the sender.

SENATOR STACHOWSKI: Excuse me?

SENATOR RATH: Fraudulent misrepresentation of who the person is that's sending the e-mail.

Thank you, that was a very good question.

SENATOR STACHOWSKI: One other question. So then -

ACTING PRESIDENT LIBOUS: Will you continue to yield, Senator Rath?

SENATOR RATH: Surely.

ACTING PRESIDENT LIBOUS: Senator Stachowski, she'll continue to yield.

SENATOR STACHOWSKI: Through you, Mr. President. So then if it -- as long as it's a legitimate e-mail coming from somebody, requested or otherwise, coming because of a cookie that may have been dropped on you because you had some site that had nothing to do with where this other e-mail came from, that's not a violation unless it's somebody who is falsifying their identity to try to take advantage of some kind of maybe fiduciary situation?

SENATOR RATH: That's right, Senator.

SENATOR STACHOWSKI: Thank you.

ACTING PRESIDENT LIBOUS: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Will the sponsor yield to a question?

ACTING PRESIDENT LIBOUS: Senator Rath, will you yield to Senator Dollinger?

SENATOR RATH: Certainly.

ACTING PRESIDENT LIBOUS: Yes, she will, Senator.

SENATOR DOLLINGER: Through you, Mr. President. This bill doesn't actually prohibit spam; is that correct?

SENATOR RATH: No, it does not prohibit. But it has the civil penalties for people who fraudulently misrepresent who they are and why they're sending it.

There's also, if you have -- no, I'm confusing this now with the "Do Not Call" registry. Let's just leave that one there.

SENATOR DOLLINGER: Okay. Through you, Mr. President, if the sponsor will continue to yield.

ACTING PRESIDENT LIBOUS: Senator Rath, will you continue to yield?

SENATOR RATH: Yes.

ACTING PRESIDENT LIBOUS: She will continue to yield, Senator.

SENATOR DOLLINGER: This bill says you can still spam someone, you can send them unsolicited material, it simply says that you can't fraudulently misrepresent where it's coming from, is that a -

SENATOR RATH: That's correct.

SENATOR DOLLINGER: So when this is called the "spam bill," this bill doesn't really prohibit spamming, it simply says that you can't spam if you fail to disclose the proper origin of where the spam comes from.

In other words -- Mr. President, through you -- if it comes from Hormel, it's okay; is that correct?

SENATOR RATH: Pardon me? The last part, I'm sorry, as counsel was -

SENATOR DOLLINGER: Well, if it comes from Hormel, it's okay; isn't that correct?

SENATOR RATH: I'm going to ask you a question, Senator Dollinger, before I answer your question.

Do you know why it's called "spam"?

SENATOR DOLLINGER: Which? The original -

ACTING PRESIDENT LIBOUS: Senator Dollinger, Senator Rath is asking you a question.

SENATOR DOLLINGER: Well, I'd be glad to respond, but I can only respond with another question.

Which Spam, the original or the electronic form?

SENATOR RATH: Why is the electronic spam called "spam"?

SENATOR DOLLINGER: I'm not sure, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Rath, would you enlighten us?

SENATOR RATH: Of course. I thought you'd never ask.

My understanding is that the phrase came from a Monty Python skit where they were ordering something in a restaurant and everything that they ordered, it was "and spam." And you want ham and eggs? And spam. And you want a chocolate soda? And spam. And it went on and on.

Apparently it was very funny. I never saw it. But sometimes that's how people

feel about unsolicited electronic mail, is that you don't want it but it keeps coming anyway.

And that's what this is pointing at, and that's why the name "spamming" became the use that is intended here.

ACTING PRESIDENT LIBOUS: Thank you, Senator Rath.

Senator Dollinger.

SENATOR DOLLINGER: Will the Senator please yield to another question?

ACTING PRESIDENT LIBOUS: Senator Rath, would you continue to yield to Senator Dollinger?

SENATOR RATH: Surely.

ACTING PRESIDENT LIBOUS: Yes, she will.

SENATOR DOLLINGER: But despite your characterization of this as "spam," this bill does not prohibit spamming. You can still send unsolicited electronic messages as a form of advertisement or, as Senator Stachowski pointed out in his little note from the Governor thanking him for being on the "Do Not Call" registry, that can still be done so

long as you don't disguise where it comes from; is that correct?

SENATOR RATH: If there's a falsification or a forging of e-mail transmissions, this is really where we are.

It's not like -- don't confuse it with the "Do Not Call" registry that we've all been through the last several months that has been extremely popular. This has to do with fraudulent activity.

SENATOR DOLLINGER: Correct.

Through you, Mr. President, does this bill contain a private right of action from a consumer who has been spammed unnecessarily or for whom there has been fraudulent spamming circulated on their computer?

SENATOR RATH: No, it does not as such. But it provides for protection of common-law actions. Counsel advises me of that point.

SENATOR DOLLINGER: Okay.

Through you, Mr. President, just briefly on the bill.

ACTING PRESIDENT LIBOUS: Senator

Dollinger shall speak on the bill.

SENATOR DOLLINGER: I voted in favor of this bill last year. I'm not going to vote in favor of it this year, because I don't really think it does anything.

If spamming is a problem -- that is, unsolicited mail -- we ought to address that specifically and do something comparable to what we've done with the "Do Not Call" registry, which is allow a computer user to put their Internet address into a central depository and tell them that nobody can spam. There would be no spamming, just like there would be no calling.

Secondly, since it doesn't end that practice, what it really does is it insulates Internet service providers, ISPs, from the consequences of fraud. And I don't think that's particularly appropriate either. I think those who are in the business should take responsibility. If their transmissions are used for fraudulent purposes, they should have some liability.

And lastly, and most importantly, Mr. President, it seems to me that without a

private right of action, without the right of every consumer to sue for fraudulent spamming, then all we're going to have is what this bill has, which is the Public Service Commission can bring an action.

Well, that's almost never going to happen, because it will take hundreds of thousands of people's rights will have to be violated before the very busy Public Service Commission gets around to trying to seek injunctive relief through the Supreme Court. That's just not the way to do it.

If we're going to empower people to control what comes on their computer screens, we ought to set up a "do not spam" registry in our computer system, number one. We should prohibit any transmissions, number two. And if it occurs, we should either hold the ISP responsible and certainly allow the individual to have direct access to the Supreme Court to protect their own privacy on their own machine. That's just a better way to do it.

This bill, at least as I see it, doesn't get to any one of those four goals and therefore I don't think is worthy of a vote.

I'll vote in the negative, Mr. President.

ACTING PRESIDENT LIBOUS: Are there any other Senators who wish to speak on the bill?

Seeing none, read the last section.

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

ACTING PRESIDENT LIBOUS: The Secretary will call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT LIBOUS: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1029, by Senator Padavan, Senate Print 1636, an act to amend the Vehicle and Traffic Law, in relation to prohibiting.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT LIBOUS: Senator Padavan, an explanation is asked for, sir.

SENATOR PADAVAN: Yes, Mr.

President.

Currently only Department of Motor Vehicles, DMV regulations indicate -- prohibit the practice of people practicing their driving skills in an area where the test is going to be given, people with a learner's permit. Signs are posted; then a violation can be issued for failure to obey a sign.

Now, what we have found out, at least in our communities that I represent, is that since this prohibition is not in the vehicle and traffic laws, local law enforcement agencies, local police are handicapped in their enforcement of this prohibition.

The result is in residential communities and elsewhere where the testing takes place, great numbers of individuals with learner's permits descend upon those areas, practicing prior to taking their test.

And this will help diminish that activity.

ACTING PRESIDENT LIBOUS: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: Through you,

Mr. President, if the sponsor will yield just to one question.

SENATOR PADAVAN: Yes.

ACTING PRESIDENT LIBOUS: Yes, the sponsor shall yield.

SENATOR DOLLINGER: Senator Padavan, I have sympathy for the community that you describe in the city of New York. Are you convinced that this problem of excessive learners driving in the testing areas exists throughout the rest of the state as a problem?

SENATOR PADAVAN: No, I'm not, Senator.

But again, I repeat, currently DMV regulations prohibit it. So it's not that we are adding a prohibition, we're just giving the authority to a local law enforcement agency to deal with it where appropriate.

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

ACTING PRESIDENT LIBOUS: Senator Dollinger shall speak on the bill.

SENATOR DOLLINGER: I think I debated this bill with Senator Padavan last

year. I won't add much to it. I just disagree.

I think that these are public highways. I think that the notion of people trying to learn how to drive -- let's face it, most of us do most of our driving in relatively small areas. I think there's an old study that shows about 80 percent of the driving that you do occurs within two miles of your house. So it seems to me that these are familiar areas. Getting familiarity with a territory is all part of the education process.

And I'm going to vote against this bill again, not just because I disagree with Senator Padavan's bill, but I actually disagree with the Superintendent's policy with respect to the regulatory control as well. I think these are public highways. People ought to be able to try and learn how to drive wherever. If it's on the road test area, well, so be it. That's where they're going to do most of their driving, is around their house anyway, and they'll know those roads as well.

I just -- I disagree with both the bill and the regulatory policy, and I'll vote in the negative.

ACTING PRESIDENT LIBOUS: Are there any other Senators who wish to speak on the legislation?

Read the last section.

THE SECRETARY: Section 3. This act shall take effect on the 90th day.

ACTING PRESIDENT LIBOUS: Call the roll.

(The Secretary called the roll.)

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

ACTING PRESIDENT LIBOUS: The bill is passed.

The Secretary will read.

THE SECRETARY: Calendar Number 1037, by Senator Wright, Senate Print 4030, an act to amend the General Municipal Law, in relation to authorizing fees for police services.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT LIBOUS: Senator

Wright, an explanation is asked for.

SENATOR WRIGHT: Thank you, Mr. President.

The bill amends the General Municipal Law to extend to municipalities a local option of imposing a fee for police services for special events, exhibits, or contests.

ACTING PRESIDENT LIBOUS: Senator Dollinger, why do you rise?

SENATOR DOLLINGER: A question, Mr. President. I believe in the discussion last year there was a question raised about - through you, if Senator Wright will yield.

ACTING PRESIDENT LIBOUS: Senator Wright, will you yield?

SENATOR WRIGHT: I will, Mr. President.

ACTING PRESIDENT LIBOUS: He will, Senator Dollinger.

SENATOR DOLLINGER: There was a question asked about the cost of paying for police services and whether this would have the impact of chilling people in the exercise of their rights to either protest or engage in

parades or similar types of activity if they knew they had to pay the cost of the police services.

Is there anything in that debate or in the ensuing year since we had that debate that suggests that that position is no longer valid?

SENATOR WRIGHT: First of all, I didn't concur with that assumption.

Secondly, it's predicated on individuals who are charging fees and incurring revenues from the activities that they're generating.

SENATOR DOLLINGER: Mr. President, just briefly on the bill, if I could.

ACTING PRESIDENT LIBOUS: Senator Dollinger will speak on the bill.

SENATOR DOLLINGER: I voted in favor of this bill. I'm going to vote in favor of this bill again.

It seems to me that the proposal from Senator Wright to require the payment of police services or authorizing communities to charge for police services in certain

instances is a fair and reasonable exercise of the police power and the governing power of a state or municipality when they are providing police protections for either a demonstration, a parade, or something of that nature. I think that's a reasonable thing to do.

I would just point out that last year, three of the members of our side - Senator Mendez, Senator Markowitz, and Senator Duane -- voted against this bill, and I think in large measure because the feeling was that for certain groups to have to pay as part of the permit process, the anticipated police fees would make it prohibitive to engage in any kind of public demonstration.

I would certainly hope that if we pass this bill and if Senator Wright's bill becomes law, that we will, at some time in the future, if what Senator Markowitz and the others had forecasted comes to pass, that we will look at releasing the restrictions for certain groups that may not have the financial ability to pay for police services.

Because at least as I read it and as it's been consistently interpreted, the

Constitution provides that we have certain rights and that communities have certain rights and associations have certain rights and that those should not be unreasonably restricted.

And if the payment of the police services does that, my guess is the courts will strike it down as applied. But even if they don't, we might look at this bill again if there's evidence that payment of the police services dampens people's exercise of their legitimate First Amendment rights.

ACTING PRESIDENT LIBOUS: Are there any other Senators who wish to speak on the bill?

Senator Hassell-Thompson, why do you rise?

SENATOR HASSELL-THOMPSON: Thank you, Mr. President. Just to speak on the bill.

ACTING PRESIDENT LIBOUS: To speak on the bill.

SENATOR HASSELL-THOMPSON: As someone who has very recently come from local government, I am very much in support of this

legislation, if in fact -- as long as the bill does not disallow the discretion of local municipalities.

One of the most difficult things that tends to happen is when we need additional police and fire department protection for certain activities, it really eats deeply into our overtime costs.

And one of the things that happens for small municipalities, and I consider - even though the city of Mount Vernon is 70,000 people, it's within 4.2 square miles -- it puts an undue pressure on the police department to have as many events each year that we do, without having some support from the agency and organization itself.

And one of the things that I would hope would happen is that where discretion can be given for those not-for-profits who would have difficulty responding to this, that there are ways in which they can work through municipal agencies, such as recreation departments and others, so that the costs will in fact be less prohibitive.

But it is certainly a bill that

lends itself to adjusting the burden that many small municipalities experience when they have to provide additional police and fire and emergency services for not-for-profits and other groups when they have activities within communities.

Thank you, Mr. President.

ACTING PRESIDENT LIBOUS: Senator Hevesi.

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

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

SENATOR WRIGHT: I will, Mr. President.

ACTING PRESIDENT LIBOUS: The sponsor yields.

SENATOR HEVESI: Thank you.

Mr. President, I love this bill. This bill is a fantastic bill. I just have one brief question for the sponsor.

Is there anything right now that prevents a municipality in New York State from enacting, on its own accord, restrictions which would require additional payment by

for-profit event promoters, either in compensation for additional police overtime or any other municipal services that might be necessary in light of the special event?

SENATOR WRIGHT: I'm not aware of any specific statutory prohibition.

However, there has been an opinion by the State Comptroller that indicated - that concluded that a municipality cannot charge for providing police protection.

SENATOR HEVESI: Okay. Thank you, Mr. President. On the bill.

ACTING PRESIDENT MEIER: Senator Hevesi, on the bill.

SENATOR HEVESI: Last year when this legislation came before us, I spoke on it at some length, citing a particular circumstance that had happened in my Senate district.

Not only do I think that this is a good bill, I think it should go further. Although it might not be necessary, because I don't know of any restriction that would prevent the locality from adopting an ordinance that, for example, would say in

addition to additional money that would have to be provided to the municipality in consideration of police overtime, but that sanitation overtime, or the additional resources that would have to be provided for any municipal service that will protect the individuals who are attending a particular venue, that that should be borne, those costs should be borne by the individuals who are profiting from whatever venue is being held in that municipality.

And just again, briefly, I had in my district -- and we've solved this problem now, though it was a tremendous effort -- an open-air tennis stadium that had 20,000 seats in it. And concert promoters were so blinded by their zeal for the almighty dollar that they absolutely ignored the concerns of the community and held, time after time, all-day-long concert festivals where beer was sold all day long -- tremendous police problem. Loitering, urination on lawns, you know. The sanitation department was, you know, working on overtime shifts. It was a horrible problem.

And to compound it, they thumbed their noses at us. And we got them. We wound up putting them out of business by getting them -- they were so unscrupulous that they were breaking the law in a number of areas. And they wound up with $60,000 in noise violations and some other things. So they're out of business.

But it was particularly galling for me to not be able to, by law, restrict their activities. The City of New York could have adopted it. They didn't choose to at the time for some other reasons. But they were particularly concerned with the legality of what exactly we were talking about, requiring additional payments for those services.

So even if we didn't do it here at the state level, it should certainly be done at the local level. Because individuals who are profiting should be responsible and accountable to the taxpayers and those who are representing those taxpayers.

So I commend Senator Wright on bringing this bill. This is fair and just. And at the very least, if individuals are

going to be making money, the government should be compensated and have some say in what goes on in these venues.

So I commend Senator Wright, and I very much hope the Assembly passes this bill. This is good for all the people of New York.

Thank you, Mr. President.

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

Debate is closed.

Read the last section.

THE SECRETARY: Section 2. This act shall take effect 180 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 55. Nays, 1. Senator Markowitz recorded in the negative.

ACTING PRESIDENT MEIER: The bill is passed.

THE SECRETARY: Calendar Number 1039, by Senator Farley, Senate Print 4631, an act to enact the Privacy of Financial Information Act.

SENATOR DOLLINGER: Explanation.

ACTING PRESIDENT MEIER: Senator Farley, an explanation has been requested of this bill by Senator Dollinger.

SENATOR FARLEY: Thank you, Mr. President. Thank you, Senator Dollinger.

This bill enacts a state law on certain protections and requirements regarding privacy of financial information similar to the provisions in the federal law.

The bill supplements the federal law by ensuring that New Yorkers are afforded similar protections through state law. As a result, New York State residents will be able to address any issue, problem, or concern through state regulators and through our courts.

As the primary regulators of New York's insurance companies and many of its banking and financial service companies, the Insurance Department, the Banking Department are provided with the express statutory authority to develop regulations and enforce these provisions and impose civil penalties for any violators. A state law will also

allow the state regulators to tailor the privacy measures to respond to or address specific needs or concerns raised within the state.

Actually, I know as a good lawyer, as you are, we're in favor of uniform laws. And they have taken, the federal -- Congress has taken the opt-out provision and made that the law of the land. It's brand-new. We don't know what the ramifications are of that. The banks and so forth, and the insurance industry, are spending millions of dollars to try to comply with this.

I think there's a concern of a lot of people -- and I'm sure that you might have that feeling, because I certainly could agree with you on that -- that opt-in might be the way to go. But Congress decided not to do that.

I think it's important that we don't put our financial institutions and all of our insurance groups and so forth at a disadvantage. Literally, no state has done the opt-in that I'm aware of. And I think it would be placing us at a disadvantage and also

maybe dry up credit, to be very honest with you, until we see how this works.

I suspect that you're going to see Congress revisit this issue, at least to tune it up and so forth, or maybe tighten it up. And that's about where we are on this one. This allows us to implement and to enforce the privacy provisions which are the law of the land right now.

ACTING PRESIDENT MEIER: Senator Dollinger.

SENATOR DOLLINGER: Thank you, Mr. President. I'll waive my usual questions with Senator Farley. He and I had a long discussion about this bill last year.

But unfortunately, I think the two issues that I brought up last year are still present in the bill that really prompt me to vote against it, Senator Farley.

The first one is I think that the opt-in versus the opt-out provision affects the consumer transaction. I'll explain how it works, Senator Farley. If you have an opt-out provision, what happens is you get a notice from your credit card company that they're

soliciting you for another credit card, or you get it from the bank.

As I think I explained last year, when I bought a house, I had to give them three years of tax returns. The bank knows more about me than my mother does. And my point then was that they can use that financial information to figure out whether they give me, you know, the credit card with the $200 limit or the $20,000 limit. All of which means they direct their marketing toward me based on the information that they have.

But, Senator Farley, from my point of view, if you had an opt-in provision, it would work just the opposite. In other words, the bank would have to write me a letter and say: Senator Dollinger, we really want your business. We're going to give you an incentive to give us access to that financial information. We're going to give you the chance for the great lottery, or tickets to whatever.

You in essence empower the consumer. At the time they consider this question of whether they want their financial

information divulged, they've got the power. They've got the information. And it seems to me that forces the marketing of financial services and other services to come to the consumer.

In this case in this bill, and in what Congress did, they flipped that on its head. They said: No, no, no, we're going to market until they tell us to stop.

And it just seems to me that empowers the insurance companies and the banks and the financial service houses, and it dethrones the power that the consumer has. It in essence tilts the economic transactions between consumer and their providers decidedly in favor of big institutions.

Given that fact that we're in essence disenfranchising -- not completely, Senator Farley, but we're tilting the transaction against the consumer and in favor of all these institutions that already have massive marketing staffs at their disposal, it just seems to me that that's a calculation that doesn't work.

I guess I would much rather be in

the position, Senator Farley, instead of getting a solicitation and being told, Oh, by the way, you can opt out -- what I'd rather be is one of those consumers where they say: We'll give you a two-night stay at our hotel if you'll opt in. They've got to give me the incentive to go in. It empowers me and takes the power away from them.

I disagree with what Congress did, I disagree with this bill, because we shouldn't be tilting those transactions in favor of institutions that already have enormous marketing power.

And the second thing, Senator Farley, I'll briefly mention it again, the bill has no private right of action. If we really believe we want to empower the consumers, give them the private right of action. They shouldn't have to wait until the Banking Department and the Insurance Department have thousands of complaints before they act.

If they violate my rights, I should be able to go into the courtroom and say, You took my private information. I don't want to

wait for the Commissioner of Insurance, I don't want to wait for the Commissioner of the Banking Department, I'm going to sue them myself because it's that important to me.

Those are my flaws. I saw them last year; I continue to see them again. I would hope that we could resolve those in discussions between the two houses if we get to that point. But I'll vote no until then.

ACTING PRESIDENT MEIER: Senator Lachman.

SENATOR LACHMAN: Mr. President, first of all, I want to thank Senator Farley for introducing this bill. It's a step in the right direction.

But I think we need two steps in the right direction. This puts the onus on the consumer. And I don't think many consumers completely understand what is involved between opt-in and opt-out.

In order to protect the consumer, I would have to agree with my colleague Senator Dollinger and vote against this bill. I don't think it will have any impact upon our financial institutions. I think it will have

a major impact upon protecting the consumers of this state.

And we should not be fearful of a state taking a position that might lead the federal government to take the same position. In the early twentieth century, there were people like La Follette and Hiram Johnson, progressives who were Democrats and Republicans, whose bills were enacted in Wisconsin and California and eventually became federal law.

So I regret that I will have to vote against this bill because it is not strong enough or conservative enough for the people it's supposed to protect.

Thank you.

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 in 120 days.

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

THE SECRETARY: Those recorded in the negative on Calendar Number 1039 are Senators Dollinger, Gentile, Hassell-Thompson, Lachman, Markowitz, Morahan, Onorato, Paterson, Sampson, Schneiderman, and Stavisky. Ayes, 45. Nays, 11.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino.

SENATOR MARCELLINO: Mr. President, can we lay aside Calendar 1001 for the day, please.

ACTING PRESIDENT MEIER: We will lay aside Calendar 1001 for the day.

Senator Marcellino, that then would complete the controversial calendar.

SENATOR MARCELLINO: Thank you, Mr. President. At this time may we return to the report of the Rules Committee -- I believe there is one at the desk -- and have it read.

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 1055, by Senator Velella, an act to authorize the City of New York.

1078B, by Senator Fuschillo, an act to amend the Vehicle and Traffic Law.

1251, by Senator Stachowski, an act to amend the Public Authorities Law.

1361, by Senator Velella, an act authorizing the City of New York.

1971, by Senator Marcellino, an act to amend the Public Health Law.

2851, by Senator Velella, an act authorizing the City of New York.

3183A, by Senator McGee, an act to amend the Uniform Justice Court Act.

3376, by Senator Alesi, an act to amend the Insurance Law.

3717, by Senator Morahan, an act in relation to persons.

3771, by Senator Velella, an act to amend the General Municipal Law.

3938, by Senator Farley, an act to amend the Public Authorities Law and the Social Services Law.

4522, by Senator Nozzolio, an act to amend the General Business Law and the Executive Law.

4654, by Senator Skelos, an act to establish.

4655, by Senator Skelos, an act to establish.

4766, by Senator Kuhl, concurrent resolution of the Senate and Assembly.

4930, by Senator Gentile, an act to authorize the Brooklyn Cultural Center.

5300A, by Senator Spano, an act to amend the Labor Law and the Public Officers Law.

5355, by Senator Spano, an act to amend the Labor Law.

5369, by Senator Bonacic, an act to amend the Workers' Compensation Law.

5389, by Senator Morahan, an act to amend Chapter 552 of the Laws of 1995.

And Senate Print 5434, by Senator Skelos, an act to amend the Arts and Cultural Affairs Law.

All bills ordered direct to third reading.

SENATOR MARCELLINO: Mr. President, 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.

All bills directly to third reading.

Senator Marcellino.

SENATOR MARCELLINO: Yes, Mr. President, at this time may we take up Calendar 1051.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 1051, by Senator Skelos, Senate Print 5434, an act to amend the Arts and Cultural Affairs Law, in relation to illegal resale of tickets.

ACTING PRESIDENT MEIER: Senator

Marcellino.

SENATOR MARCELLINO: Mr. President, is there a message of necessity at the desk?

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

SENATOR MARCELLINO: Move to accept the message.

ACTING PRESIDENT MEIER: All those in favor of accepting the message of necessity signify by saying aye.

(Response of "Aye.")

ACTING PRESIDENT MEIER: Opposed, nay.

(No response.)

ACTING PRESIDENT MEIER: The message is accepted. The bill is before the house.

Read the last section.

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

ACTING PRESIDENT MEIER: Call the roll.

(The Secretary called the roll.)

SENATOR PATERSON: Explanation.

ACTING PRESIDENT MEIER: Senator Skelos, an explanation has been requested of Calendar 1051 by Senator Paterson.

SENATOR SKELOS: Senator Paterson, you wanted an explanation?

SENATOR PATERSON: Yes.

SENATOR SKELOS: Okay. What this legislation does, it amends what is referred to as the "Ticket Scalping Law" in the State of New York to make it a crime if you either pay or receive a bribe from an individual who is looking for tickets.

Also, it expands the buffer zone that exists presently from 1,000 feet to 1500 feet. It also increases the amount above the face value of the ticket that a person could receive to 20 percent from 10 percent.

And the legislation sunsets in two years rather than one year, which has been the practice for the last several years.

ACTING PRESIDENT MEIER: Read the last section.

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

ACTING PRESIDENT MEIER: Call the

roll.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

ACTING PRESIDENT MEIER: The bill is passed.

Senator Marcellino.

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

ACTING PRESIDENT MEIER: Yes, we have some motions, Senator.

Senator Farley.

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

On behalf of Senator Bonacic, I wish to call up his bill, Senate Print 5119, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 829, by Senator Bonacic, Senate Print 5119, an act to amend Chapter 915 of the Laws of 1982.

SENATOR FARLEY: 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, 56.

SENATOR FARLEY: Mr. President, I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FARLEY: Mr. President, on behalf of Senator Marcellino, I wish to call up his bill, 5269, which was recalled from the Assembly, which is now at the desk.

ACTING PRESIDENT MEIER: The Secretary will read.

THE SECRETARY: Calendar Number 969, by Senator Marcellino, Senate Print 5269, an act to amend the Environmental Conservation Law.

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

ACTING PRESIDENT MEIER: Call the roll on reconsideration.

(The Secretary called the roll.)

THE SECRETARY: Ayes, 56.

SENATOR FARLEY: I now offer the following amendments.

ACTING PRESIDENT MEIER: The amendments are received and adopted.

SENATOR FARLEY: On behalf of Senator Skelos, Mr. President, I move to recommit Senate Print Number 398, Calendar Number 867, which is on the order of the third reading, to the Committee on Children and Families, with instructions to strike the enacting clause.

ACTING PRESIDENT MEIER: So ordered.

SENATOR FARLEY: On behalf of Senator Skelos, Mr. President, on page 19, I offer the following amendments to Calendar Number 442, Senate Print 420, and I ask that that 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.

SENATOR MARCELLINO: I assume the house is clean, sir?

ACTING PRESIDENT MEIER: Yes, that concludes the housekeeping, Senator.

SENATOR MARCELLINO: There being no further business, I move we adjourn until Monday, June 11th, at 3:00 p.m., intervening days to be legislative days.

ACTING PRESIDENT MEIER: On motion, the Senate stands adjourned until Monday, June 11th, at 3:00 p.m. Intervening days will be legislative days.

(Whereupon, at 1:17 p.m., the Senate adjourned.)